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The Commonwealth of Massachusetts

# MANUAL

OF THE

## LAWS RELATING TO PUBLIC HEALTH



1948

Massachusetts Department of Public Health



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The Commonwealth of Massachusetts

MANUAL

OF THE

LAWS RELATING TO

PUBLIC HEALTH



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MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, BOSTON, MASS.



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LAWS RELATING TO  
PUBLIC HEALTH



1948

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THE COMMONWEALTH OF MASSACHUSETTS



# MANUAL OF HEALTH LAWS

## INTRODUCTION

This Manual is prepared in accordance with authorization contained in General Laws (Ter. Ed.), chapter 111, section 24, which directs the Department of Public Health to publish a manual of health laws every five years.

Under each section of the laws presented will be found references to such Supreme Judicial Court decisions as may affect it in any way, and notes of such decisions as seem important for boards of health to consider. References are made also to the most important opinions of the Attorneys General.

REFERENCES IN THIS MANUAL ARE TO THE TERCENTENARY EDITION OF THE GENERAL LAWS, AS MOST RECENTLY AMENDED, UNLESS OTHERWISE SPECIFIED.







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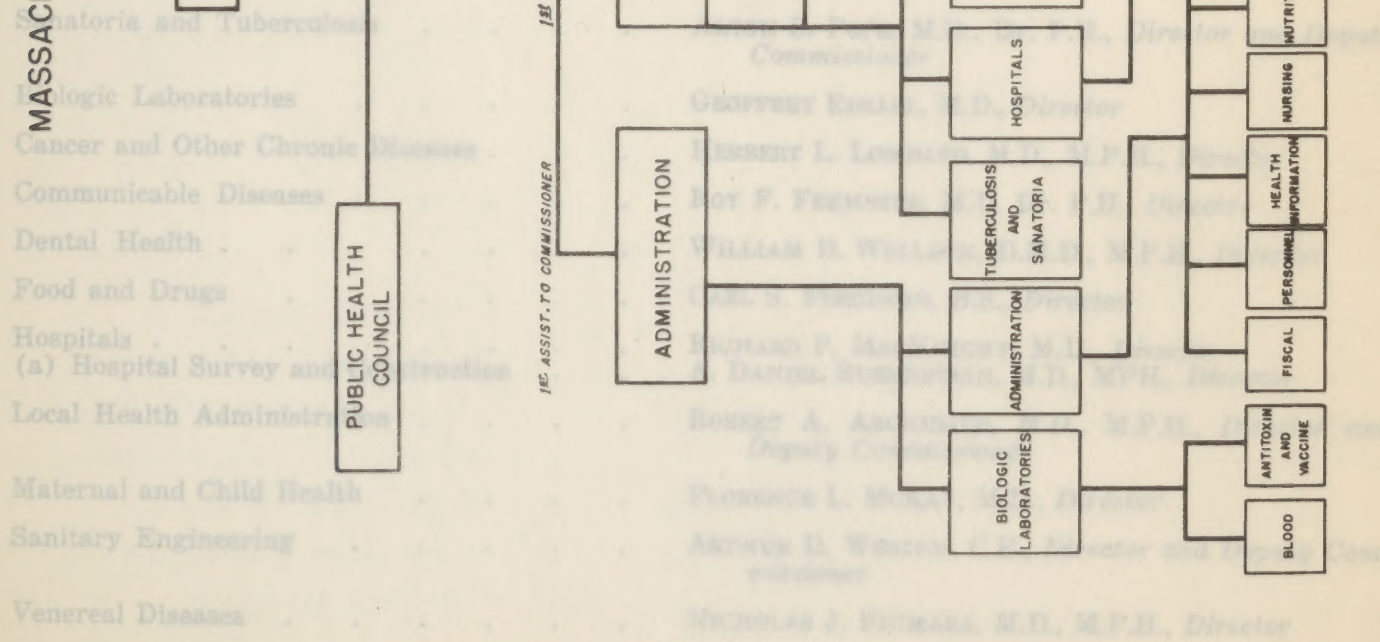
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TRANSDUCTOR



# ORGANIZATION OF MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

*Commissioner of Public Health,*  
VLADO A. GETTING, M.D., DR. P.H.

---

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RAYMOND L. MUTTER

GORDON HUTCHINS

RICHARD M. SMITH, M.D.

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CHARLES F. WILINSKY, M.D.

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Sanatoria and Tuberculosis . . . . .	ALTON S. POPE, M.D., DR. P.H., <i>Director and Deputy Commissioner</i>
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Food and Drugs . . . . .	CARL S. FERGUSON, B.S., <i>Director</i>
Hospitals . . . . .	RICHARD P. MACKNIGHT, M.D., <i>Director</i>
(a) Hospital Survey and Construction . . . . .	A. DANIEL RUBENSTEIN, M.D., MPH., <i>Director</i>
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Maternal and Child Health . . . . .	FLORENCE L. MCKAY, M.D., <i>Director</i>
Sanitary Engineering . . . . .	ARTHUR D. WESTON, C.E., <i>Director and Deputy Commissioner</i>
Venereal Diseases . . . . .	NICHOLAS J. FIUMARA, M.D., M.P.H., <i>Director</i>



## STATE DISTRICT HEALTH OFFICERS

SOUTHEASTERN DISTRICT . . . . .	HAROLD W. STEVENS, M.D.
105 William Street, New Bedford	
SOUTH METROPOLITAN DISTRICT . . . . .	BROOKS RYDER, M.D., M.P.H.
1245 Hancock Street, Quincy	
NORTH METROPOLITAN DISTRICT . . . . .	ROBERT E. S. KELLEY, M.D.
227 Commonwealth Avenue, Boston	
NORTHEASTERN DISTRICT . . . . .	WALTER J. PENNELL, M.D.
367 Main Street, Wakefield	
SOUTH CENTRAL DISTRICT . . . . .	GEORGE F. CAPANA, M.D., M.P.H.
476 Main Street, Worcester	
NORTH CENTRAL DISTRICT . . . . .	ARTHUR E. BURKE, M.D., M.P.H.
Central Avenue, Ayer	
CONNECTICUT VALLEY DISTRICT . . . . .	WALTER W. LEE, M.D., M.P.H.
Fernald Hall, University of Massachusetts, Amherst . .	
BERKSHIRE DISTRICT . . . . .	CHARLES E. GILL, M.D., M.P.H.
184 North Street, Pittsfield	

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## INSTITUTIONS

RUTLAND STATE SANATORIUM . . . . .	PAUL DUFAULT, M.D.
Rutland	
NORTH READING STATE SANATORIUM . . . . .	CLAIRE W. TWINAM, M.D.
North Wilmington	
LAKEVILLE STATE SANATORIUM . . . . .	LEON A. ALLEY, M.D.
Middleboro	
WESTFIELD STATE SANATORIUM . . . . .	WILSON W. KNOWLTON, M.D.
Westfield	
PONDVILLE HOSPITAL . . . . .	GEORGE L. PARKER, M.D.
Walpole	

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## BUREAUS

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HEALTH INFORMATION . . . . .	ALLAN R. CUNNINGHAM, M.D.
NURSING . . . . .	ETHEL G. BROOKS, R.N., B.S.
NUTRITION . . . . .	DOROTHEA NICOLL, B.S., M.S.
PERSONNEL . . . . .	MARY CARR BAKER, A.B.
SANITATION . . . . .	ALEXANDER A. ROBERTSON
SOCIAL SERVICE . . . . .	HELEN J. ALMY, A.B.



INSTRUCTIONS - 1954

GENERAL LAWS

Chapter 17.

Section 5A on page 9 is hereby repealed.  
1954, 564

Chapter 94.

Section 52 on page 53 and Section 56 and  
57 on page 54 are hereby repealed.  
1954, 262

Chapter 94.

Section 163 on page 70 is corrected by striking out in line 6 the word "grain" and inserting in place thereof the word "grams".

Chapter 140.

Sections 132, 133, 134, 135 and 136 on page  
144 are hereby repealed.  
1954, 672, s.7







(To replace Regulation 4, Rules & Regulations  
Relative to Physical Examination of School  
Children in Massachusetts.)

4. The school committee or board of health  
shall cause the vision and hearing of each  
child in the public schools to be tested  
annually.







MISCELLANEOUS LAWS

ACTS OF 1950, 639

CIVIL DEFENSE

(To be inserted in place of Section 22 on last  
page of Civil Defense Act.)

Section 22. This act or any part hereof  
shall become inoperative by the adoption of a  
joint resolution to that effect by the house  
and senate acting concurrently.

1953, 491





INSTRUCTIONS- 1954  
RULES AND REGULATIONS

Rules and regulations relative to transportation of bodies dead of diseases dangerous to public health, on page 214, is hereby amended by striking out the last paragraph and inserting in place thereof the following:-

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 7/12/38, amended 8/9/38, and 2/14/39.

Rules and regulations relative to establishing grades of milk, on page 241, is hereby corrected by striking out the last paragraph. These are regulations established by the Milk Regulation Board. Approved by Governor and Council on 11/17/48.





# GENERAL LAWS

## CHAPTER 17.

### DEPARTMENT OF PUBLIC HEALTH.

#### SECT.

1. Department of public health.
2. Commissioner.
3. Public health council.
4. Division in the Dept. of Public Health.
5. Deputy Commissioner.
- 5A. Chief. San. Eng.: Salary.
6. Assistant directors and other employees.
7. District health officers.
8. Institutions under division of sanatoria.
9. Employees of the division of sanatoria.

**SECTION 1. Department of Public Health.** There shall be a department of public health, consisting of a commissioner of public health and a public health council.

1869, 420, § 1.	1907, 474, §§ 1, 15.	261 Mass. 512.
1879, 291, § 2.	1914, 792, §§ 1, 8.	315 Mass. 337.
P. S. 79, § 1.	1919, 350, §§ 96, 97.	4 Op. A. G. 298, 403.
1886, 101, § 1.	G. L. 17, § 1.	1940, A. G. 42.
R. L. 75, § 1.	136 Mass. 578.	1942, Op. A. G. 42.

The State Board of Health was originally established by chapter 420, Acts of 1869.

By chapter 291, Acts of 1879, its powers were transferred to the newly established Board of Health, Lunacy and Charity.

By chapter 101, Acts of 1886, the State Board of Health was reestablished.

By chapter 792, Acts of 1914, An Act to create a State Department of Health and to amend the Public Health Laws.

By chapter 350, Acts of 1919, State Department of Health succeeded by Department of Public Health.

**SECTION 2. Commissioner.** The commissioner shall be a physician skilled in sanitary science and experienced in public health administration. Upon the expiration of the term of office of a commissioner, his successor shall be appointed by the governor, with the advice and consent of the council, for five years. The commissioner shall receive a salary of ten thousand dollars. He shall be the executive and administrative head of the department.

1869, 420, § 5.	R. L. 75, § 3.	G. L. 17, § 2.
1869, 420, § 5.	1906, 425.	1946, 591, § 21.
1886, 101, § 3; 274,	1907, 363, 474,	1947, 658, § 1.
§§ 1, § 2.	§§ 1, 2.	4 Op. A. G. 298, 403.
1888, 375, §§ 1, 2.	1914, 792, §§ 2, 8.	6 Op. A. G. 166.
1897, 510, § 2.	1919, 350, § 96.	

**SECTION 3. Public Health Council.** The public health council shall consist of the commissioner, ex officio, and six appointive members, of whom three shall be physicians. Upon the expiration of the term of office of an appointive member, his successor shall be appointed by the governor, with the advice and consent of the council, for a term of six years and until the qualification of his successor. The council shall meet at least once a month, and at such other times as it shall determine by its rules, or when requested by the commissioner or any four members. The appointive members shall receive twenty dollars a day while in conference, and their necessary travel-

ing expenses while in the performance of their official duties.

1869, 420, §§ 1, 3.	1914, 792, §§ 3, 8.	261 Mass. 512.
1879, 291, §§ 2, 7.	1919, 350, § 96.	315 Mass. 337.
P. S. 79, §§ 1, 3.	G. L. 17, § 3.	4 Op. A. G. 403.
1886, 101, §§ 1, 2.	1939, 233, § 1.	
R. L. 75, §§ 1-3.	1946, 159, § 22.	

**SECTION 4. Division in Department of Public Health.** There shall be in the department a division of sanatoria and such other divisions as the commissioner, with the approval of the public health council, may from time to time determine. The commissioner may appoint a director of the division of sanatoria, and, subject to the approval of the public health council, shall appoint a director to take charge of every other division, and shall prescribe the duties of such other divisions. Every such director shall be subject to chapter thirty-one.

1907, 474, §§ 1, 15.	1919, 350, § 98.	1941, 596, § 11.
1914, 792, §§ 2, 4.	G. L. 17, § 4.	1941, 726, § 1.

**SECTION 5. Deputy Commissioner.** The commissioner may, with the approval of the public health council, designate the director of one or more, but not more than three, divisions as deputy commissioners, who shall perform such duties as may be prescribed by the commissioner, and he may, with like approval, designate one of the deputy commissioners to perform the duties of the commissioner during his absence or disability.

1919, 350, § 97.	G. L. 17, § 5.	1948, 323, § 1.
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**SECTION 5A. Chief Sanitary Engineer: Salary.** The director of sanitary engineering and chief sanitary engineer in the department shall receive a salary of ten thousand dollars, any provision of law to the contrary notwithstanding.

1947, 658, § 2.

**SECTION 6. Appointment of Assistant Directors and Other Employees.** The commissioner may, with the approval of the public health council, appoint assistant directors of divisions and epidemiologists, inspectors and other necessary employees. Persons appointed hereunder shall be subject to chapter thirty-one.

1886, 274, §§ 1, 2.	1912, 652, § 3.	G. L. 17, § 6.
1888, 375, §§ 1, 2.	1914, 792, § 2.	1941, 725, §§ 2, 4, 6.
1897, 510, § 2.	1919, 28; 350, § 97.	1942, A. G. 42.
R. L. 75, § 116.	1931, 301, § 68.	308 Mass. 246.
1907, 537, § 8.	6 Op. A. G. 434.	

**SECTION 7. District Health Officers.** The commissioner, with the approval of the public health council, shall appoint a district health officer for each health district provided in section four of chapter one hundred and eleven. Such officers shall be graduates of incorporated medical schools, admitted to practice in the commonwealth, or shall have had at least five years' experience in public health duties



and sanitary science, shall give their entire time to the performance of their duties, and shall be subject to chapter thirty-one.

The commissioner of public health shall transmit to the director of civil service a list of the officers and employees who, on the effective date of this act, are incumbents of the offices and positions made subject by this act to the civil service laws and the rules and regulations made thereunder.

The director of civil service, on receipt of said list, shall forthwith proceed to give a qualifying examination to each officer and employee on such list to determine his qualifications to perform the duties of such office or position, as the case may be.

If any such officer or employee fails to pass such qualifying examination, said director shall transmit to the commissioner of public health notice of the results of said examination, whereupon the services of said officer or employee shall terminate. Said director shall certify such officers and employees who pass such qualifying examination to their respective offices and positions, and they shall be deemed to be permanently appointed thereto without serving any probationary period, and their tenure of office or employment shall be unlimited, subject, however, to

the civil service laws and the rules and regulations made thereunder.

1907, 537, §§ 2, 4, 6.	G. L. 17, § 7.	300 Mass. 246.
1910, 523, §§ 2, 3.	1981, 301, § 68.	
1914, 792, §§ 2, 5.	1941, 725, §§ 2, 4,	
1920, 435.	5, 6.	

**SECTION 8. Institutions under Division of Sanatoria.** The division of sanatoria shall include the state sanatoria at Rutland, North Reading, Lakeville and Westfield.

1907, 474, §§ 1, 15.	1919, 350, §§ 96, 98.	1931, 301, § 68.
1910, 193, § 1; 491.	1924, 477, § 2.	

**SECTION 9. Employees of the Division of Sanatoria.** In addition to the persons employed under section six, the commissioner, with the approval of the public health council, may appoint a treasurer for each sanatorium, who shall give bond for the faithful performance of his duties, and physicians, assistants and employees necessary for the proper administration of the affairs of the institutions under the charge of the division, and may incur all expenses necessary for the maintenance of the institutions.

1832, 163, § 1.	R. L. 87, § 27; 88,	1919, 350, § 96.
1834, 150, § 1.	§§ 4, 6.	G. L. 17, § 9.
R. S. 48, § 3.	1907, 474, §§ 6,	1931, 301, § 70.
G. S. 73, § 4.	9, 15.	1942, A. G. 42.
P. S. 37, § 7.	1910, 491.	305 Mass. 257.
1895, 503, §§ 5, 8.	1913, 762, § 1.	

## CHAPTER 40.

### POWERS AND DUTIES OF CITIES AND TOWNS.

#### SECT.

1. Powers to continue.
2. Towns may sue and be sued.
4. Power to contract.
- 4A. Power to contract.

#### PURPOSE FOR WHICH TOWNS MAY APPROPRIATE MONEY.

5. Power to make appropriations.
12. Public baths or wash house.
- 13B. Certain small towns may acquire resident physicians.

#### PROVIDING NECESSITIES.

24. Inspection of ice.

#### PUBLIC WATER SUPPLY.

38. Town may purchase water supply.
39. Pipes may be laid in another town. Damages.
- 39A. Town may establish water supply or water distributing system.
- 39B. Town may take waters by eminent domain.
- 39C. Town may construct and maintain filtration plants, etc., subject to approval of department of public health.
- 39D. Town may enter upon lands for purpose of making surveys, etc.
- 39E. Board of water commissioners.
- 39F. Recovery against town for certain damages.
- 39G. Penalty for pollution, etc., of water.
- 39H. Aid by one water department to another.
40. Emergency water supply.
41. Protection of water supply.
42. Authorization of laying pipes.

#### COLLECTION OF WATER RATES.

- 42A. Water rates, when to be lien upon real estate.
- 42B. Lien, when to take effect. Dissolution.
- 42C. Unpaid accounts, commitment to collectors.
- 42D. Unpaid accounts to bear interest and be added to tax bill.
- 42E. Abatements. Appeal.
- 42F. Recovery from tenants by owners paying charges.

**SECTION 1. Powers to Continue.** Cities and towns shall be bodies corporate, and, except as otherwise expressly provided, shall have the powers, exercise the privileges and be subject to the duties and liabilities provided in the several acts establishing them and in the acts relating thereto. Except as otherwise expressly provided, cities shall have all

the powers of towns and such additional powers as are granted to them by their charters or by general or special law, and all laws relative to towns shall apply to cities.

1785, 75, § 9.	
R. S. 2, § 6, cl. 17; 15, §§ 8, 86.	
G. S. 3, § 7, cl. 17; 18, § 1; 19, §§ 1, 2.	
P. S. 3, § 3, cl. 23; 27, § 1; 28, §§ 1, 2.	
R. L. 26, §§ 1, 2.	

G. L. 40, § 1.	219 Mass. 580.	303 Mass. 233.
140 Mass. 381, 485.	233 Mass. 275.	319 Mass. 293.
143 Mass. 148.	298 Mass. 277.	1 Op. A. G. 463.
137 Mass. 159, 461.	299 Mass. 356.	4 Op. A. G. 540.
191 Mass. 78.	300 Mass. 638.	7 Op. A. G. 236.
200 Mass. 175.	301 Mass. 449.	8 Op. A. G. 155.
202 Mass. 402.	304 Mass. 102.	8 Op. A. G. 421.
203 Mass. 539.	305 Mass. 459.	1935, Op. A. G. 58.
207 Mass. 341.		

**SECTION 2. Towns may Sue and be Sued.** A town may in its corporate capacity sue and be sued by its name, and may appoint necessary agents therefor.

1694 5, 15, §§ 1, 2.	P. S. 27, § 8.	113 Mass. 67.
1783, 39, § 4.	R. L. 25, § 12.	122 Mass. 263, 344.
1785, 75, § 8.	G. L. 40, § 2.	127 Mass. 272.
R. S. 15, § 10.	1 Met. 473.	199 Mass. 527.
G. S. 18, § 9.	11 Allen, 149.	285 Mass. 255.

**SECTION 4. Power to Contract.** A town may make contracts for the exercise of its corporate powers and for the following purposes: For the disposal of its garbage, refuse and offal by contract for a term of years. Contracts for such disposal of its disposal may be made by the selectmen, board of health or other officers having charge thereof. For the reception, care and treatment by hospitals established in or near the town, if maintains and manages no hospital, of persons who by misfortune or poverty require relief during temporary illness; but this provision shall not add to the compensation now required



DEPARTMENT OF PUBLIC HEALTH.

CHAP. 17.

(To be inserted in place of section 2, on page 9.)

Section 2. Commissioner. The commissioner shall be a physician skilled in sanitary science and experienced in public health administration. Upon the expiration of the term of office of a commissioner, his successor shall be

appointed by the governor, with the advice and consent of the council, for five years. The commissioner shall receive a salary of twelve thousand five hundred dollars. He shall be the executive and administrative head of the department.

1869, 420, s. 5.

1886, 101, s. 3; 274,

s. s. 1, s. 2.

1888, 375, ss. 1, 2

1897, 510, s. 2.

R. L. 75, s. 3.

1906, 425.

1907, 363, 474.

ss. 1, 2.

1914, 792, ss. 2, 8.

1919, 350, s. 96.

G. L. 17, s. 2.

1946, 591, s. 21.

1947, 658, s. 1.

4 Op. A. G. 298, 403.

6 Op. A. G. 166.

1950, 794.





Page 10A

(To be inserted after Chapter 17 on page 10.)

Section 1. For the purposes of this chapter--

(1) "Adjudicatory proceeding" means a proceeding before an agency in which the legal rights, duties or privileges of specifically named persons are required by constitutional right or by any provision of the General Laws to be determined after opportunity for an agency hearing. Without enlarging the scope of this definition, adjudicatory proceeding does not include (a) proceedings solely to determine whether the agency shall institute or recommend institution of proceedings in a court; or (b) proceedings for the arbitration of labor disputes voluntarily submitted by the parties to such disputes; or (c) proceedings for the disposition of grievances of employees of the commonwealth; or (d) proceedings to classify or reclassify, or to allocate or reallocate, appointive offices and positions in the government of the commonwealth.

(2) "Agency" includes any department, board, commission, division or authority of the state government, or sub-division of any of the foregoing, or official of the state government, authorized by law to make regulations or to conduct adjudicatory proceedings, but does not include the following: the legislative and judicial departments; the governor and council; military or naval boards, commissions or officials; the department of correction; the youth service board and the division of youth service in the department of education; the parole board; the division of industrial accidents of the department of labor and industries; and the division of child guardianship of the department of public welfare.

(3) "Party" to an adjudicatory proceeding means:--(a) the specifically named persons whose legal rights, duties or privileges are being determined in the proceeding; and (b) any other person who as a matter of constitutional right or by any provision of the General Laws is entitled to participate fully in the proceeding, and who upon notice as required in paragraph (1) of section eleven makes an appearance; and (c) any other person allowed by the agency to intervene as a party. Agencies may by regulation not inconsistent with this section further define the classes of persons who may become parties.

(4) "Person" includes all political subdivisions of the commonwealth.

(5) "Regulation" includes the whole or any part of every rule, regulation, standard or other requirement of general application and future effect adopted by an agency to implement or interpret the law enforced or administered by it, but does not include (a) advisory rulings issued under section eight; or (b) regulations concerning only the internal management or discipline of the adopting agency or any other agency, and not directly affecting the rights of or the procedures available to the public or that portion of the public affected by the agency's activities; or (c) regulations concerning the operation and management of state penal, correctional, welfare, educational, public health and mental health institutions and soldiers' homes, or the development and management of property of the commonwealth or of the agency; or (d) regulations relating to the use of public works, including streets and highways, when the substance of such regulations is indicated to the public by means of signs or signals; or (e) decisions issued in adjudicatory proceedings.

(6) "Substantial evidence" means such evidence as a reasonable mind might accept as adequate to support a conclusion.

1954, 681, s.1

Section 2. Prior to the adoption or amendment of any regulation as to which a hearing is required by any law, or any other regulation the violation of which is punishable by fine or imprisonment except a regulation of agency practice or procedure, an agency shall give notice and hold a public hearing, as follows:--

(1) The agency shall, within the time specified by any law, or, if no time is specified, then at least twenty-one days prior to the public hearing, (a) publish notice of such hearing in such manner as is specified by any law, or, if no manner is specified, then in such newspapers, and, where appropriate, in such trade, industry or professional publications as the agency may select; and (b) notify any person specified by any law, and, in addition, any person or group filing written request, such request to be renewed yearly in December, for notice of hearings which may affect that person

or group, notification being by mail or otherwise to the last address specified by the person or group.

The notice shall (a) refer to the statutory authority under which the action is proposed; (b) give the time and place of the public hearing; (c) either state the express terms or describe the substance of the proposed regulation or amendment, or state the subjects and issues involved; and (d) include any additional matter required by any law.

(2) The public hearing shall comply with any requirements imposed by law, but shall not be subject to the provisions of this chapter governing adjudicatory proceedings.

(3) If the agency finds that immediate adoption or amendment of a regulation is necessary for the preservation of the public health, safety or general welfare, and that observance of the requirements of notice and public hearing would be contrary to the public interest, the agency may dispense with such requirements and adopt the regulation or amendment as an emergency regulation or amendment. The agency's finding and a brief statement of the reasons for its finding shall be incorporated in the emergency regulation or amendment as filed with the state secretary under section thirty-seven of chapter thirty. An emergency regulation or amendment shall not remain in effect for longer than three months unless during that time the agency gives notice and holds a public hearing as required in this section, and files notice of compliance with the state secretary.

This section does not relieve any agency from compliance with any law requiring that its regulations be approved by designated persons or bodies before they become effective.

1954, 681, s. 1

Section 3. Prior to the adoption or amendment of any regulation other than those subject to section two, or the repeal of any regulation, an agency shall give notice and afford interested persons an opportunity to present data, views or arguments, as follows:--

(1) The agency shall, within the time specified by any law, or if no time is specified, then at least twenty-one days prior to its proposed action, (a) publish notice of its proposed action in such manner as is specified by any law, or if no manner is specified then in such newspapers, and, where appropriate, in such trade, industry or professional publications as the agency may select; and (b) notify any person

specified by any law, and, in addition, any person or group filing written request, such request to be renewed yearly in December, for notice of proposed action which may affect that person or group, notification being by mail or otherwise to the last address specified by the person or group.

The notice shall (a) refer to the statutory authority under which the action is proposed; (b) give the time and place of any public hearing, or state the manner in which data, views or arguments may be submitted to the agency by any interested person; (c) either state the express terms or describe the substance of the proposed action, or state the subjects and issues involved; and (d) include any additional matter required by any law.

(2) The agency shall afford interested persons an opportunity to present data, views or arguments in regard to the proposed action orally or in writing. If the agency finds that oral presentation is unnecessary or impracticable, it may require that presentation be made in writing.

(3) If the agency finds that the requirements of notice and opportunity to present views on its proposed action are unnecessary, impracticable or contrary to the public interest, the agency may dispense with such requirements or any part thereof. The agency's finding and a brief statement of the reasons for its finding shall be incorporated in the regulation, amendment or repeal as filed with the state secretary under section thirty-seven of chapter thirty.

This section does not relieve any agency from compliance with any law requiring that its regulations be approved by designated persons or bodies before they may become effective.

1954, 681, s. 1

Section 4. Any interested person may petition an agency requesting the adoption, amendment or repeal of any regulation, and may accompany his petition with such data, views and arguments as he thinks pertinent. Each agency shall prescribe by regulation the procedure for the submission, consideration and disposition of such petitions.

1954, 681, s. 1

Section 5. Regulations made in accordance with the provisions of this chapter shall be filed with the state secretary under the requirements of section thirty-seven of chapter thirty. Regulations shall become effective upon filing, unless a later date is required by any law or is specified by the agency in the regu-



lation.

Such filing shall be prima facie evidence of compliance with all regulation making requirements imposed by law.

1951, 621, s.1

Section 6. Each agency shall compile all of its regulations currently in effect and cause them to be published in pamphlet, looseleaf or other appropriate form in printed, mimeographed or other written manner, and shall make the publication available for distribution to any interested person on request. The publication may be compiled in separate parts, so long as the parts taken together include all regulations. The agency shall keep the publication currently up to date in any manner it deems practicable.

The agency may include in the publication an informal description of its organization and procedures, and any other explanatory information it considers useful to aid interested persons in dealing with the agency.

Except where any law requires distribution to designated persons or groups without request, the agency is authorized to charge not more than cost for each copy of the publication distributed upon request. The charge shall be subject to the approval of the state purchasing agent, in accordance with the procedure provided in section twenty-nine of chapter seven.

The state secretary, if he finds that any agency fails to comply with this section, shall report the matter to the governor and council. The state secretary shall also, as part of his regular annual report to the general court, report on the state of compliance of the agencies with this section. For these purposes, all agencies shall file with the state secretary copies of their publications of compiled regulations, and shall supply him with such other information as he may request.

1951, 621, s.1

Section 7. Unless an exclusive mode of review is provided by law, judicial review of any regulation may be had through petition for declaratory relief in the manner and to the extent provided under chapter two hundred and thirty-one A.

1951, 621, s.1

Section 8. On request of any interested person, an agency may make an advisory ruling with respect to the applicability to any person, property or state of facts of any statute or regulation enforced or administered by that agency. In issuing the advisory ruling, the

agency need not comply with the requirements of this chapter with respect to regulations.

1951, 621, s.1

Section 9. Each agency shall adopt regulations governing the procedures prescribed by this chapter.

1951, 621, s.1

Section 10. In conducting adjudicatory proceedings, as defined in this chapter, agencies shall afford all parties an opportunity for full and fair hearing. Unless otherwise provided by any law, agencies may (1) place on any party the responsibility of requesting a hearing if the agency notifies him in writing of his right to a hearing and of his responsibility to request the hearing; (2) make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order or default; (3) limit the issues to be heard or vary the procedures prescribed by section eleven, if the parties agree to such limitation or variation; and (4) allow any person showing that he may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any other limited purpose, as the agency may order.

When a party to an adjudicatory proceeding has the opportunity, by provision of any law or by regulation, to obtain more than one agency hearing on the same question, whether before the same agency or before different agencies, it shall be sufficient if the last hearing available to the party complies with the requirements of this chapter, and the earlier hearings need not so comply.

When a party has the opportunity to obtain an agency hearing, followed by one or more appeals before the same agency or before different agencies, such appeals being limited to the record made at the hearing, the appeal procedure need not comply with any requirement of this chapter for the conduct of adjudicatory proceedings except paragraphs (7) and (8) of section eleven.

When, under a provision of any law, a hearing is required only upon direction of an agency or upon request made in accordance with such provision by a person entitled to make such request, the requirements of this chapter governing the conduct of adjudicatory proceedings shall not apply unless and until such direction

or request is in fact made.

1954, 681, s.1

Section 11. In addition to other requirements imposed by law and subject to the provisions of section ten, agencies shall conduct adjudicatory proceedings in compliance with the following requirements:--

(1) Reasonable notice of the hearing shall be accorded all parties and shall include statements of the time and place of the hearing. Parties shall have sufficient notice of the issues involved to afford them reasonable opportunity to prepare and present evidence and argument. If the issues cannot be fully stated in advance of the hearing, they shall be fully stated as soon as practicable. In all cases of delayed statement, or where subsequent amendment of the issues is necessary, sufficient time shall be allowed after full statement or amendment to afford all parties reasonable opportunity to prepare and present evidence and argument respecting the issues.

(2) Unless otherwise provided by any law, agencies need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Agencies may exclude unduly repetitious evidence, whether offered on direct examination or cross-examination of witnesses.

(3) Every party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify, and to submit rebuttal evidence.

(4) All evidence, including any records, investigation reports, and documents in the possession of the agency of which it desires to avail itself as evidence in making a decision, shall be offered and made a part of the record in the proceeding, and no other factual information or evidence shall be considered, except as provided in paragraph (5) of this section. Documentary evidence may be received in evidence in the form of copies or excerpts, or by incorporation by reference.

(5) Agencies may take notice of any fact which may be judicially noticed by the courts, and in addition, may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies may utilize their experi-

ence, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

(6) Agencies shall make available an official record, which shall include testimony and exhibits, and which may be in narrative form, but the agency need not arrange to transcribe shorthand notes or sound recordings unless requested by a party. If so requested, the agency may, unless otherwise provided by any law, require the party to pay the reasonable costs of the transcript before the agency makes the transcript available to the party.

(7) If a majority of the officials of the agency who are to render the final decision have neither heard nor read the evidence, such decision, if adverse to any party other than the agency, shall be made only after (a) a tentative or proposed decision is delivered or mailed to the parties containing a statement of reasons and including determination of each issue of fact or law necessary to the tentative or proposed decision; and (b) an opportunity is afforded each party adversely affected to file objections and to present argument, either orally or in writing as the agency may order, to a majority of the officials who are to render the final decision. The agency may by regulation provide that, unless parties make written request in advance for the tentative or proposed decision, the agency shall not be bound to comply with the procedures of this paragraph.

(8) Every agency decision shall be in writing or stated in the record. The decision shall be accompanied by a statement of reasons for the decision, including determination of each issue of fact or law necessary to the decision, unless the General Laws provide that the agency need not prepare such statement in the absence of a timely request to do so. Parties to the proceeding shall be notified in person or by mail of the decision; of their rights to review or appeal the decision within the agency or before the courts, as the case may be; and of the time limits on their rights to review or appeal. A copy of the decision and of the statement of reasons, if prepared, shall be delivered or mailed upon request to each party and to his attorney of record.

1954, 681, s.1

Section 12. In conducting adjudicatory proceedings, agencies shall issue, vacate, modify and enforce subpoenas in accordance with the



following provisions:--

(1) Agencies shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding. Agencies may administer oaths and affirmations, examine witnesses, and receive evidence. The power to issue subpoenas may be exercised by any member of the agency or by any person or persons designated by the agency for such purpose.

(2) The agency may prescribe the form of subpoena, but it shall adhere, in so far as practicable, to the form used in civil cases before the courts. Witnesses shall be summoned in the same manner as witnesses in civil cases before the courts, unless another manner is provided by any law. Witnesses summoned shall be paid the same fees for attendance and travel as in civil cases before the courts, unless otherwise provided by any law.

(3) Any party to an adjudicatory proceeding shall be entitled as of right to the issue of subpoenas in the name of the agency conducting the proceeding. The party may have such subpoenas issued by a notary public or justice of the peace, or he may make written application to the agency, which shall forthwith issue the subpoenas requested. However issued, the subpoena shall show on its face the name and address of the party at whose request the subpoena was issued. Unless otherwise provided by any law, the agency need not pay fees for attendance and travel to witnesses summoned by a party.

(4) Any witness summoned may petition the agency to vacate or modify a subpoena issued in its name. The agency shall give prompt notice to the party, if any, who requested issuance of the subpoena. After such investigation as the agency considers appropriate it may grant the petition in whole or part upon a finding that the testimony, or the evidence whose production is required, does not relate with reasonable directness to any matter in question, or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive, or has not been issued a reasonable period in advance of the time when the evidence is requested.

(5) Upon the failure of any person to comply with a subpoena issued in the name of the agency and not revoked or modified by the agency as provided in this section, any justice of the

superior court, upon application by the agency or by the party who requested that the subpoena be issued, may in his discretion issue an order requiring the attendance of such person before the agency and the giving of testimony or production of evidence. Any person failing to obey the court's order may be punished by the court for contempt.

1954, 681, s.1

Section 13. "License", as used in this section, includes any license, permit, certificate, registration, charter, authority or similar form of permission required by law.

Except as otherwise provided in this section, no agency shall revoke or refuse to renew any license unless it has first afforded the licensee an opportunity for hearing in conformity with sections ten, eleven and twelve. If a licensee has, in accordance with any law and with agency regulations, made timely and sufficient application for a renewal, his license shall not expire until his application has been finally determined by the agency. Any agency that has authority to suspend a license without first holding a hearing shall promptly upon exercising such authority afford the licensee an opportunity for hearing in conformity with sections ten, eleven and twelve.

This section shall not apply--

(1) Where a provision of the General Laws expressly provides that an agency is not required to grant a hearing in regard to revocation, suspension or refusal to renew a license, as the case may be; or

(2) Where the agency is required by any law to revoke, suspend or refuse to renew a license, as the case may be, without exercising any discretion in the matter, on the basis of a court conviction or judgment; or

(3) Where the revocation, suspension or refusal to renew is based solely upon failure of the licensee to file timely reports, schedules, or applications, or to pay lawfully prescribed fees, or to maintain insurance coverage as required by any law or by regulation.

1954, 681, s.1

Section 14. Except so far as any provision of law expressly precludes judicial review, any person or appointing authority aggrieved by a final decision of any agency in an adjudicatory proceeding, whether such decision is affirmative or negative in form, shall be entitled to a judicial review thereof, as follows:--

Where a statutory form of judicial review or appeal is provided, other than by extraordinary

writ, such statutory form shall govern in all respects, except as to standards for review. The standards for review shall be those set forth in paragraph (8) of this section, except so far as statutes provide for review by trial de novo. In so far as the statutory form of judicial review or appeal is silent as to procedures provided in this section, the provisions of this section shall govern such procedures.

Where no statutory form of judicial review or appeal is provided, or where the only statutory form of review is by extraordinary writ, judicial review shall be obtained by means of a petition for review, as follows:--

(1) Proceedings for judicial review of an agency decision shall be instituted by the filing of a petition for review in the superior court for the county (a) where the petitioners or any of them reside or have their principal place of business within the commonwealth, or (b) where the agency has its principal office, or (c) of Suffolk. The court may grant a change of venue upon good cause shown. The petition shall be filed in the court within thirty days after receipt of notice of the final decision of the agency, or, if a petition for re-hearing has been timely filed with the agency, within thirty days after receipt of notice of agency denial of such petition for re-hearing. Upon application made within the thirty-day period or any extension thereof, the court may for good cause shown extend the time. A copy of the petition shall, within the same period, be served personally or by registered mail upon the agency or one of its members or upon its secretary or clerk.

(2) The petition shall be addressed to the court and shall include a concise statement of the facts upon which jurisdiction and venue are based, facts showing that petitioner is aggrieved, and the ground or grounds specified in paragraph (8) of this section upon which petitioner contends he is entitled to relief. The petition shall demand the relief to which petitioner believes he is entitled, which demand may be in the alternative. Copies of the petition shall be served, personally or by registered mail, not later than ten days after the institution of the proceeding upon all parties to the agency proceeding in which the decision sought to be reviewed was made. For the purposes of such service the agency upon request shall certify to the petitioner the names and addresses of all such parties as disclosed by its records, and service upon parties so certified

shall be sufficient. All parties to the proceeding before the agency shall have the right to intervene in the proceeding for review. The court may in its discretion permit other interested persons to intervene.

(3) The filing of the petition shall not operate as a stay of enforcement of the agency decision, but the agency may stay enforcement, and the reviewing court may order a stay upon such terms as it considers proper.

(4) Within forty days after service of a copy of the petition for review upon the agency, or within such further time as the court may allow, the agency shall file in the court the original or a certified copy of the record of the proceeding under review. The record shall consist of (a) the entire proceedings; or (b) such portions thereof as the agency and the parties may stipulate, or (c) a statement of the case agreed to by the agency and the parties. The expense of preparing the record may be assessed as part of the costs in the case, and the court may, regardless of the outcome of the case, assess any one unreasonably refusing to stipulate to limit the record, for the additional expenses of preparation caused by such refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(5) Any person served with a copy of the petition for review as provided in paragraph (2) of this section, and who desires to intervene in the review proceeding, shall, within ten days after service of the copy of the petition upon such person, serve upon petitioner and the agency, and file in the court, a notice of intervention stating his interest and the position he takes with respect to the agency decision under review. Service of all subsequent papers or notices in the review proceeding need be made only upon the agency and the parties, who shall include the petitioner, those persons who have filed notices of intervention, and any other persons who have been permitted to intervene by the court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court.

(7) If application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material to the issues



in the case, and that there was good reason for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and decision by reason of such additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modified or new findings or decision.

(8) The court may affirm the decision of the agency, or remand the matter for further proceedings before the agency; or the court may set aside or modify the decision, or compel any action unlawfully withheld or unreasonably delayed, if it determines that the substantial rights of any party may have been prejudiced because the agency decision is--

(a) In violation of constitutional provisions; or

(b) In excess of the statutory authority or jurisdiction of the agency; or

(c) Based upon an error of law; or

(d) Made upon unlawful procedure; or

(e) Unsupported by substantial evidence; or

(f) Unwarranted by facts found by the court on the record as submitted or as amplified under paragraph (7) of this section, in those instances where the court is constitutionally required to make independent findings of fact; or

(g) Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

The court shall make the foregoing determinations upon consideration of the entire record, or such portions of the record as may be cited by the parties. The court shall give due weight to the experience, technical competence, and specialized knowledge of the agency, as well as to the discretionary authority conferred upon it.

If the court finds that the action of the appointing authority in discharging, removing, suspending, laying off, transferring from his office or employment without his consent, lowering in rank or compensation or abolishing his position, or the action of the commission confirming the action taken by the appointing authority, was not justified, the employee shall be reinstated in his office or position without loss of compensation and the court shall assess reasonable costs against the employer.

1954, 681, s.1

Section 15. The supreme judicial court shall have jurisdiction to review any proceedings had, determinations made, and orders or decrees issued in the superior court pursuant to section fourteen in the same manner and to the same extent as in equity suits, so far as the provisions governing equity suits are applicable. The court may by rule vary the procedure authorized or required by this section upon a finding that the review by the court will thereby be made more simple, speedy and effective.

1954, 681, s.1

Section 16. The supreme judicial court shall have the power to make rules of pleading, practice and procedure supplementary to and not inconsistent with the provisions of this chapter relating to judicial review of administrative action, and to amend such rules, for the purpose of securing a simple, speedy and effective judicial review of administrative action.

1954, 681, s.1

Section 17. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application.

1954, 681, s.1

All provisions of the General Laws setting forth standards for review in conflict with paragraph (8) of section fourteen of chapter thirty A of the General Laws are hereby repealed.

1954, 681, s.20

The initial compilation and publication by each agency under section six of said chapter thirty A of all its regulations shall be made as soon as practicable after the effective date of this act, but not later than one year thereafter.

1954, 681, s.21

This act shall take effect on July first, nineteen hundred and fifty-five.

1954, 681, s.22





from the commonwealth or from any town for the care and treatment of any person chargeable to them respectively, nor diminish the right of the commonwealth to require the removal to the Tewksbury State Hospital of a person who has no legal settlement. Contracts for such reception, care and treatment may be made by the board of public welfare or by the board of health.

For the furnishing of transportation of school children. Contracts for such transportation may be made by the school committee for periods not exceeding three years; provided, that no such contract, whether written or oral, shall be made for the use for such transportation of a school bus, as defined in section one of chapter ninety, other than a motor vehicle for the operation of which security is required to be furnished under section six of chapter one hundred and fifty-nine A, unless there shall first have been filed with the registrar of motor vehicles and by copy with the city or town clerk the certificate of an insurance company or surety company authorized to issue or to execute as surety within the commonwealth motor vehicle liability policies or bonds, both as defined in section thirty-four A of chapter ninety, that there is in force such a policy or bond issued or executed as aforesaid, covering such school bus, which provides indemnity, protection or security in the case of any one accident resulting in injury to or death of more than one person up to the amount of fifty thousand dollars instead of ten thousand dollars as required by said section thirty-four A; and provided, further, that the termination of such a policy or bond during the term of any such contract shall be a breach thereof and forthwith terminate it. All provisions of law applicable to motor vehicle liability policies and bonds as defined as aforesaid shall apply to policies and bonds containing such additional amount of indemnity, protection or security.

To pay interest at a rate not exceeding four per cent per annum, during the lives of any persons in being at the time of entering into such contract, upon any cash gift which it may lawfully receive.

G. S. 15, § 11.	G. L. 40, § 4.	254 Mass. 50.
G. S. 18, § 9.	1932, 271, § 6.	282 Mass. 562.
P. S. 27, § 9.	1941, 351, § 3.	285 Mass. 255.
1889, 377.	1946, 358, § 1.	286 Mass. 551.
1890, 119.	167 Mass. 115.	291 Mass. 289.
1895, 217.	182 Mass. 39.	296 Mass. 352.
R. L. 25, § 14.	191 Mass. 291.	297 Mass. 560.
1902, 544, § 6.	217 Mass. 381.	298 Mass. 87.
1918, 291, § 1.	219 Mass. 580.	304 Mass. 102.
1926, 67.	233 Mass. 275.	305 Mass. 232.
1928, 155, § 1.	247 Mass. 56.	311 Mass. 688.
1929, 323.	251 Mass. 89.	318 Mass. 782.

When a town has voted that the board of health shall let out the work to the lowest responsible bidder the board of health cannot award the contract to any one else. *Oliver et al. v. Gale et al.* 182 Mass. 39.

For lighting public highways and public grounds for a period not exceeding ten years.

**SECTION 4A. Power to Contract.** Any governmental unit, as hereinafter defined, may enter into an agreement with one or more other governmental units to perform jointly or for such other unit or units any service, activity or undertaking which each contracting unit is authorized by law to perform, if such agreement is authorized by each party

thereto, in a city by the city council with the approval of the mayor and in a town or district by a town or district meeting. Any such agreement may be terminated by any party thereto at the end of any fiscal year if such termination is authorized by the terminating unit in the manner aforesaid; provided, that notice of such termination is given to each other party to the agreement at least sixty days prior to the date of termination. The words "governmental unit" as used herein shall mean a city or town, or a district organized under section forty-four of this chapter, or under chapter forty-eight or under any special law.

All bills and pay rolls submitted for work done under any such agreement shall be plainly marked to indicate that the work was done under authority thereof, and reimbursement for such work shall be made at such intervals as the agreement provides. The amount of reimbursement received under any such agreement by any governmental unit shall be credited on its books to the account of estimated receipts. The equipment and employees of a governmental unit while engaged in performing any such service, activity or undertaking under such an agreement shall be deemed to be engaged in the service and employment of such unit, notwithstanding such service, activity or undertaking is being performed in or for another governmental unit or units.

1945, 438.

## PURPOSES FOR WHICH TOWNS MAY APPROPRIATE MONEY.

**SECTION 5. Power to make Appropriations.** A town may at any town meeting appropriate money for the following purposes:

1785, 75, § 7.	21 Pick. 64.	291 Mass. 889.
R. S. 15, §§ 12, 16;	10 Cush. 56, 252.	299 Mass. 204.
25, § 8.	11 Gray, 340.	300 Mass. 688.
G. S. 18, § 10.	10 Allen, 570.	5 Op. A. G. 397.
P. S. 27, §§ 10, 12.	11 Allen, 108.	6 Op. A. G. 18.
1897, 132.	108 Mass. 408.	8 Op. A. G. 155.
R. L. 25, § 15.	134 Mass. 555.	8 Op. A. G. 496.
G. L. 40, § 5.	137 Mass. 171.	1936 Op. A. G. 40.
13 Mass. 272.	286 Mass. 551.	1937 Op. A. G. 106.
6 Pick. 101.		

(5A) For supplying itself and its inhabitants with water as authorized by law.

1988, 172.

(8) For burial grounds.

103 Mass. 94.

G. L. 40, § 5.

(19) For the performance of the duties of the board of health and for the establishment and maintenance of hospitals, or of beds therein, sanitary stations, clinics, dispensaries and quarantine grounds, and for the care of indigent persons suffering from disease, in accordance with the provisions of chapter one hundred and eleven.

G. L. 40, § 5.

6 Op. A. G. 578.

(20) For the erection and maintenance of a hospital for the reception of persons requiring relief during temporary sickness. Such hospitals shall be managed by trustees or other officers and agents appointed in accordance with ordinances, rules or regulations made by the city council or the town.

1873, 199.  
P. S. 84, § 20.

R. L. 81, § 25.  
1915, 143.

G. L. 40, § 5.  
1946, 358, § 5.



(21) For the employment of district or other nurses.

1911, 72.

G. L. 40, § 5.

1921, 371, § 1.

(21A) For the purchase or hire and for the maintenance of ambulances.

(25A) For the maintenance and supervision of beaches and swimming pools for recreation and physical exercise.

1946, 358, § 6.

(31) For the establishment and maintenance of children's health camps, as provided by sections sixty-two A to sixty-two G, inclusive, of chapter one hundred and eleven or for the care and treatment of underweight and undernourished children of school age by contract as provided by section sixty-two H of said chapter one hundred and eleven.

G. L. 40, § 5.

1925, 17, § 1.

(36) For the improvement of low lands and swamps and the eradication of mosquitoes under chapter two hundred and fifty-two, or for the eradication of mosquitoes by the board of health in a town not then included within an area described by an identifying name for the purposes of section five A of said chapter two hundred and fifty-two.

1929, 228, § 6.

1930, 96.

1930, Op. A. G. 42.

(40) To provide eyeglasses and spectacles for school children eighteen years of age or under who are in need thereof and whose parents or guardians are financially unable to furnish the same. Money so appropriated shall be expended under the direction of the mayor and city council of a city and the selectmen of a town.

1937, 185.

**SECTION 12. Public Baths or Wash Houses.** A town which accepts this section, or has accepted corresponding provisions of earlier laws, by a two thirds vote at an annual meeting, may purchase or lease land, and erect, alter, enlarge, repair and improve buildings for public baths and wash houses, either with or without open drying grounds, and may make open bathing places, provide them with the requisite furniture, fittings and conveniences and provide instruction in swimming. Such town may establish rates for the use of such baths and wash houses, and appoint officers therefor, and may make by-laws for the government of such officers, and authorize them to make regulations for the management thereof and for the use thereof by non-residents of said town.

1874, 214, §§ 1-3.  
P. S. 27, §§ 18, 1A.

1898, 125, §§ 1, 2.  
R. L. 25, §§ 20, 21.

G. L. 40, § 12.  
225 Mass. 387.

**SECTION 13B. Certain Small Towns may acquire Resident Physicians.** A town of not exceeding three thousand inhabitants which accepts this section by vote in town meeting may appropriate for free residence quarters for a school physician a sum not exceeding five hundred dollars.

G. L. 40, § 13B.

1925, 303, § 1.

**SECTION 21. Ordinances, By-laws and Regulations.**

(5) **Establishment of Common Sewers.** For declaring any sewer or drain laid in any land or way, public or private, opened or proposed to be opened for public travel, to be a common sewer, and that it shall not be laid or connected with any existing com-

mon sewer except by the board or officers authorized to lay and maintain common sewers.

1895, 227.

126 Mass. 431.

(6) **Regulation of the Use of Sewers.** For regulating, under a penalty not exceeding fifty dollars for each offence, the use of the common sewers and in connections which may be made therewith.

1897, 116, § 1.

(7) **Regulating Water Supply Pipes.** For regulating throughout the town or within a limited portion thereof, by any designated board or commission, the inspection, materials, construction, alteration or use of pipes and fixtures through which water is supplied by public water works; and to prohibit the use of such water by persons neglecting or refusing to comply with such by-laws.

1875, 105, §§ 1, 2.

P. S. 27, §§ 16, 17.

(8) **Use of Reservoirs.** For regulating, under a penalty not exceeding fifty dollars for each offence, the use of reservoirs connected with its water supply and land and driveways appurtenant thereto.

1876, 139.

P. S. 27, § 18.

(16) **Removal of Vehicles Interfering with Highway Work.** For authorizing the superintendent of streets or other officer having charge of ways, for the purpose of removing or plowing snow, or removing ice, from any way, to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work, and for imposing liability for the cost of such removal, and of the storage charges, if any, resulting therefrom, upon the owner of such vehicle.

1941, 346, § 1.

**SECTION 24. Inspection of Ice.** A city may make ordinances to secure the inspection of ice sold therein and to prevent the sale of impure ice, and affix penalties of not more than twenty dollars for each violation thereof.

1895, 338.  
R. L. 26, § 18.

219 Mass. 121.

239 Mass. 540.

## PUBLIC WATER SUPPLY.

**SECTION 38. Town may purchase Water Supply.** A city, by a two thirds vote of its city council, ratified by a majority of the voters thereof at an election called for the purpose, or a town, by action of its selectmen, ratified by a majority of its voters present and voting thereon at a town meeting at which the voting list shall be used, may, for the purpose of supplying water to itself and its inhabitants, purchase of any municipal or other corporation the right to take water from its sources of supply or from its pipes; or may purchase its whole water rights, estates, franchises and privileges, and thereby become entitled to all its rights and privileges and subject to all its duties and liabilities; or, by its board of water commissioners or officers performing like duties, may contract with any such corporation for a supply of water. Any municipal corporation, by its water department, may make such a sale or enter into such a contract to supply water to a city or town.

A city or town having a water supply or water distributing system may develop and use any source

(To be inserted after paragraph (16) of Section 21, on Page 12)

(17) For prohibiting or regulating the removal of soil, loam, sand or gravel from land not in public use in the whole or in specified districts of the town. The penalty for violation of any ordinance or by-law made hereunder shall be as follows:- for the first offence, fifty dollars; for the second offence, one hundred dollars; and for each subsequent offence, two hundred dollars.

1951, 352

(18) For regulating the inspection, materials, construction, installation, alteration or use of pipes, fittings and fixtures through which gas is supplied within buildings and other structures.

1952, 594

(19) For requiring owners of land which has been excavated by the removal of clay, to erect barriers, or to take other suitable measures to protect persons from damages incident thereto. The penalty for violation of any ordinance or by-law made hereunder shall be as follows:- for the first offence, fifty dollars; for the second offence, one hundred dollars; and for each subsequent offence, two hundred dollars.

1953, 402

(20) For requiring owners of land whereon is located an abandoned well or a well in use, to either provide a covering for such well capable of sustaining a weight of three hundred pounds or to fill same to the level of the ground. The penalty for violation of any ordinance or by-law made hereunder shall be a fine of not less than one hundred dollars nor more than five hundred dollars.

1954, 213





## POWERS AND DUTIES OF CITIES AND TOWNS

G 4 Apr. 51  
(Chap. 40) See Page 12, Section 5, in proper sequence)

(36A) For acquiring information regarding the growth of ragweed within its limits and for doing such things as are considered necessary to suppress, eradicate and destroy ragweed. Such appropriations shall be expended under the direction of such department as may be designated by the town meeting in a town or the city council in a city. Duly authorized officials of any city or town in which such appropriations are voted, or their agents, representatives or employees, may enter upon land within the limits thereof to carry out the purposes for which such appropriations are voted.

1949, 136

(41A) A board of water commissioners or a board of public works with the duties of water commissioners of a municipality, water supply, fire and water district or water company having control of water supplies, may, on behalf of their respective bodies politic or corporate, upon notification to the water takers, restrain the use of water on public and private premises by shutting off the water at the meter or at the curb cock or by other means as the case may be, during a drought, hurricane, conflagration or other disaster when in the opinion of the department of public health an emergency exists.

1949, 793





of water supply within its limits, not already appropriated for purposes of public water supply, and for such purpose may proceed under any laws applicable to such system as though the authority granted hereby had been contained in such laws; provided, that no source of water supply and no lands necessary for protecting and preserving the purity of the water shall be taken or used without first obtaining the advice and approval of the department of public health.

Nothing in this section shall be construed as authorizing any city or town, any part of which is within ten miles of the state house, or any water company owning a water supply system in any such city or town, except in case of emergency, to use, for domestic purposes, water in contravention of any provision of chapter ninety-two, and no such city, town or water company shall purchase water, except in case of emergency, from any municipality without written permission so to do by the metropolitan district commission.

1870, 98, §§ 1, 5.  
1878, 255.  
P. S. 27, §§ 27, 31;  
28, § 3.  
R. L. 25, §§ 31, 34;  
26, § 5.  
G. L. 40, § 38.

126 Mass. 416.  
1938, 172, § 2.  
1941, 465, § 1.  
144 Mass. 177.  
192 Mass. 455.  
235 Mass. 18.  
253 Mass. 403.

290 Mass. 10.  
815 Mass. 339.  
1 Op. A. G. 263.  
1933, Op. A. G. 81.  
1937, Op. A. G. 106.  
1942, Op. A. G. 39.

1938, 172, § 3.

**SECTION 39. Pipes may be laid in Another Town. Damages.** If the water is conveyed through another town, pipes may be laid through any public ways therein which the board of aldermen or selectmen thereof may designate; and the town laying such pipes shall be liable for damages caused thereby.

1870, 98, § 4.  
P. S. 27, § 30.

R. L. 25, § 38.

G. L. 40, § 39.

**SECTION 39A. Towns may Establish Water Supply or Water Distributing System.** A town, by a majority of its voters present and voting thereon at a town meeting at which the voting list shall be used, may establish a water supply or water distributing system and maintain and operate the same, in accordance with sections thirty-nine B to thirty-nine G, inclusive; but no such system shall be established to supply water in any town while the inhabitants of any part thereof are being served directly by a water company or a water supply district, water district, or fire district supplying water to its inhabitants, except in accordance with section thirty-eight or with special law. Any town may vote to authorize its board of selectmen to act as water commissioners, with all the powers and duties of such commissioners, until water commissioners shall be elected as hereinafter provided. A town which has so voted may, at an annual town meeting, or at a special town meeting called for the purpose and held at least thirty days before the next annual town meeting, vote that at such next annual town meeting water commissioners shall be elected.

1938, 172, § 3.

1941, 465, § 2.

315 Mass. 339.

**SECTION 39B. Town may take Waters by Eminent Domain.** For the purpose of establishing a water supply or water distributing system as authorized by section thirty-nine A, any town, by its board of water commissioners or selectmen authorized to act as such, may take by eminent domain under chapter seventy-nine, or acquire by purchase or

otherwise, and hold, the waters, or any portion thereof, of any pond, brook, spring, stream or ground water sources within its limits, not already appropriated for purposes of public water supply, and any water or flowage rights connected therewith; and also for said purpose may take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and treating such water and protecting and preserving the purity thereof and for conveying the same to any part of the town; provided, that no source of water supply and no lands necessary for protecting and preserving the purity of the water shall be taken or used without first obtaining the advice and approval of the department of public health, and that the location and arrangement of all dams, reservoirs, wells or filter galleries, filtration and pumping plants or other works necessary in carrying out the provisions of sections thirty-nine A to thirty-nine E, inclusive, shall be subject to the approval of said department.

**SECTION 39C. Town may construct and maintain filtration plants, etc., subject to approval of department of public health.** A town may construct and maintain on the lands acquired and held by it under section thirty-nine B proper dams, wells, reservoirs, pumping and filtration plants, buildings, stand-pipes, tanks, fixtures and other structures, including also purification and treatment works, the construction and maintenance of which shall be subject to the approval of the department of public health, and may make excavation, procure and operate machinery, and provide such other means and appliances and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct, lay and maintain aqueducts, conduits, pipes and other works, under or over any lands, water courses, railroads, railways and public or other ways, and along any such way in said town in such manner as not unnecessarily to obstruct the same; and for the purposes of constructing, laying, maintaining, operating and repairing such conduits, pipes and other works, and for all other proper purposes of sections thirty-nine A to thirty-nine E, inclusive a town may dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel thereon; provided, that all things done upon any such way shall be subject to the direction of the selectmen of the town or, in the case of a state highway, of the state department of public works; and provided, further, that no such town shall enter upon, or construct or lay any conduits, pipes or other works within, the location of any railroad corporation except at such time and in such manner as it may agree upon with such corporation or, in case of failure so to agree, as may be approved by the department of public utilities.

1938, 172, § 3.

**SECTION 39D. Town may enter upon lands for purpose of making surveys, etc.** Such a town may enter upon any lands for the purpose of making sur-



veys, test pits and borings, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by said sections thirty-nine A to thirty-nine E, inclusive.

1938, 172, § 3.

**SECTION 39E. Board of Water Commissioners.** The land, water rights and other property taken or acquired under section thirty-nine B, and all works, buildings and other structures erected or constructed under sections thirty-nine C and thirty-nine D, shall be managed, improved and controlled by a board of water commissioners to be elected as provided by section sixty-nine A of chapter forty-one, or by its selectmen authorized to act as such, in such manner as they shall deem for the best interests of the town.

1938, 172, § 3.

**SECTION 39F. Recovery against town for certain damages.** Any person or corporation injured in his or its property by any action of a town under said sections thirty-nine A to thirty-nine E, inclusive, may recover damages from said town under chapter seventy-nine.

1938, 172, § 3.

**SECTION 39G. Penalty for pollution, etc., of Water.** Whoever wilfully or wantonly corrupts, pollutes or diverts any of the waters taken or held under said sections thirty-nine A to thirty-nine E, inclusive, or injures any structure, work or other property owned, held or used by a town under the authority and for the purposes of said sections, shall forfeit and pay to said town three times the amount of damages assessed therefor, to be recovered in an action of tort; and upon conviction of any one of the above wilful or wanton acts shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year, or both.

1938, 172, § 3.

**SECTION 39H. Aid by one Water Department to Another.** A city, town or district through its water department, if any, if thereunto authorized by ordinance or by-law, or by by-law or by vote of its governing body if a district, or a water company, as defined in section one of chapter one hundred and sixty-five, may go to aid any other city, town or district or any other water company, as so defined, in repairing and maintaining the physical properties of its water supply system. Any such ordinance, by-law or vote may authorize the head of the water department to extend such aid, subject to such conditions and restrictions as may be prescribed therein. Members of water departments of cities, towns and districts while in the performance of their duties in extending such aid shall have the same immunities and privileges as if performing the same work in their respective cities, towns and districts. Any city, town, district or water company aided under this section shall compensate any city, town, district or water company rendering aid as aforesaid, for such aid and for the whole or any part of any damage to its property sustained in the course of rendering such aid.

1943, 125.

**SECTION 40. Emergency Water Supply.** The metropolitan district commission in cities or towns using the metropolitan water supply, the city council in other cities, the selectmen or water commissioners in other towns, water commissioners of water supply and fire and water districts, officers having control of county institutions having water works, heads of state departments having control of state institutions having water works, hereinafter described as officers having control of such an institution, and water companies supplying any communities in the commonwealth, in cases of emergency, may, on behalf of their respective bodies politic or corporate, take by eminent domain under chapter seventy-nine the right to draw water from any stream, pond or reservoir or from ground sources of supply by means of driven, artesian or other wells not already appropriated to uses of a municipal or other public water supply, or may purchase water from the metropolitan district commission, subject to the provisions of chapter ninety-two, any other water supply district, fire and water district or any city, town or water company, or county or state institution having water works, for a period of not more than six months in any year in quantities necessary to relieve the emergency; but no such taking or purchase shall be made until after the department of public health has approved the water as a proper source of water supply and unless and until, in the case of towns and water supply and fire and water districts, the selectmen or water commissioners have first been authorized so to take or purchase by a vote of the voters at a town meeting or a district meeting, as the case may be, or, in the case of water companies, said companies have first been so authorized in writing by said department. The proper authority as aforesaid may also take by eminent domain under said chapter seventy-nine the right to use any land for the time necessary to use such water; provided, that, in the case of such a taking by a water company, said department shall first prescribe the limits within which such rights shall be taken. The vote of a city council or of the voters of a town or of a water supply or fire and water district or the action of county or state officers as aforesaid or of the metropolitan district commission or the written authorization of said department of public health to a water company to make or authorize such taking or purchase as aforesaid shall be conclusive evidence of the existence of the emergency. The metropolitan district commission, subject to the provisions of chapter ninety-two, any other water supply district or fire and water district and any city, town or water company or the aforesaid officers having control of any county or state institution having water works may, for a period of not more than six months in any year, sell to the metropolitan district commission, to any city, town, water supply or fire and water district, or water company, or to any county or state institution having water works, such quantities of water as may be available at the time, and the approval of said department of public health shall be conclusive evidence that such quantities are safely available for sale. In such emergencies the said parties interested may agree to install for the purpose temporary pipes and

## POWERS AND DUTIES OF CITIES AND TOWNS

### CHAP. 40.

(To be inserted after section 40, on page 15.)

Any city or town, water district, water supply district, fire and water district, fire district or water company may contract with any other such city, town, district or water company for the interconnection of their water distribution systems and for providing and using any necessary pumping equipment for the supplying of water for domestic, fire and other purposes. The supplying of water for domestic

purposes for extended periods shall be subject to the provisions of section forty of chapter forty of the General Laws. Such interconnections made with the works of the metropolitan district commission or any municipality, district or water company supplied therefrom shall be subject to the provisions of chapter ninety-two of the General Laws.

1951, 531.





other works in any city or town; provided, that the installation or repair of such pipes or other works in or along any highway shall be done with the least possible hindrance to public travel, and shall be subject to the direction and approval of the officers or departments having charge of the maintenance of said highways.

1901, § 313, §§ 1, 4.	G. L. 40, § 40.	1933, § 314.
R. L. 25, §§ 35, 38.	1926, § 318.	1945, § 606.
1902, § 361.	1931, § 235.	1942, Op. A. G. 130.
1919, § 350, §§ 96, 123.		

**SECTION 41. Protection of Water Supply.** Towns and water supply and fire districts duly established by law may, with the consent and approval of the department of public health, given after due notice and a hearing, take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, and hold, lands, buildings, rights of way and easements within the watershed of any pond, stream, reservoir, well or other water used by them as a source of water supply, which said department may deem necessary to protect and preserve the purity of the water supply. All lands taken, purchased or otherwise acquired under this section shall be under the control of the board of water commissioners of the town or district acquiring the same, who shall manage and improve them in such manner as they shall deem for the best interest of the town or district. All damages to be paid by a town or district by reason of any act done under authority hereof may be paid out of the proceeds of the sale of any bonds authorized by law to be issued by such town or district for water supply purposes or from any surplus income of the water works available therefor. A town may also make a contract to contribute to the cost of building, by any other town situated in the watershed of its water supply, a sewer or system of sewers to aid in protecting such water supply from pollution.

1888, § 160.	1911, § 135, §§ 1, 2.	Op. A. G. (1928), 43.
R. L. 25, § 14.	1919, § 350, § 96.	Op. A. G. 1929.
1908, § 499, §§ 1, 2, 4.	G. L. 40, § 41.	315 Mass. 339.

**SECTION 42. Authorization of Laying of Pipes.** The board of aldermen or the selectmen may, upon terms and conditions prescribed by them, authorize the laying of pipes and conduits for the conveyance of water under any public way in their town; provided, that this section shall not authorize any person to supply water to any other person in any town where municipal water works are established except with the consent of the board or authority having charge of such water works therein.

1903, § 459.	G. L. 40, § 42.	4 Op. A. G. 342.
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**SECTION 42A. Water Rates when to be lien upon real estate.** If the rates and charges due to a city, town or water district, which accepts this section and section forty-two B to forty-two F, inclusive, by vote of its city council or of the voters in town or district meeting and, by its clerk, files a certificate of such acceptance in the proper registry of deeds, for supplying or providing for water or rendering service or furnishing materials in connection therewith to or for any real estate at the request of the owner or tenant are not paid within sixty days after their due date as established by local regulations, ordinances or by-laws, which due dates shall be so

established as to require payments at least as often as semi-annually, such rates and charges, together with interest thereon and costs relative thereto, shall be a lien upon such real estate in the manner hereinafter provided; but such lien shall attach only for water supplied and provided for, service rendered and materials furnished within a period of one year and six months next prior to the filing of the statement in the registry of deeds as provided in section forty-two B. The register of deeds shall record such certificate of acceptance in a book to be kept for the purpose, which shall be kept in an accessible location in the registry. Notwithstanding the authority to establish such a lien such overdue rates and charges may be collected through any legal means, including the shutting off of water, which may be deemed advisable; provided, that after the termination of such a lien no city, town or water district shall attempt to enforce, by shutting off the water, collection of any water rates or charges included in such lien from any person, not liable therefor, who has succeeded to the title or interest, of the person who incurred them. Sections forty-two B to forty-two F, inclusive, shall also apply to a water district which has accepted sections forty-two A to forty-two F, inclusive, and whose clerk has so filed the certificate of acceptance. Wherever in said sections the words "board or officer in charge of the water department" or their equivalent appear, they shall also mean and include the officers exercising similar duties in any city, town or district. A fire district authorized to supply water shall, for the purposes of sections forty-two A to forty-two F, inclusive, be deemed to be a water district.

1932, § 197, § 2.	1938, § 415, § 1.	1941, § 380, § 7.
1936, § 42, § 1.		

**SECTION 42B. Lien, when to take effect. Dissolution.** Such lien shall take effect upon the filing for record in the registry of deeds for the county or district where the real estate lies of a statement by the board or officer in charge of the water department that the rates and charges for the supplying of or providing for water or the rendering of service or the furnishing of materials in connection therewith to or for the real estate therein described, to an amount therein specified, have remained unpaid for sixty days after their due date, and said lien, unless dissolved, or disclaimed and released, as hereinafter provided, shall continue until the account referred to in said statement has been added to or committed as a tax as provided in section forty-two D, and thereafter, unless so dissolved, or disclaimed and released, shall continue as provided in section thirty-seven of chapter sixty, except that the date provided for termination of the lien in case of a recorded alienation shall be at the expiration of two years from October first of the year of such addition or committal. Such statement shall contain the name of the owner of record of such real estate on January first of the year in which the statement is filed and a description of such real estate sufficiently accurate for identification. The register of deeds shall receive and record or, in case of registered land, file and register, said statement, and any certificate or disclaimer and release under this section duly filed for record. Such lien may be dissolved by



filing for record in such registry of deeds a certificate from the collector of taxes, or from the officer or other person having the power and duty under local regulations, ordinances or by-laws to collect water rates and charges, that all rates and charges, for which such lien attached, together with interest and costs thereon, have been paid or legally abated. Any person tendering payment of an unpaid account, rate or charge for which a lien statement has been filed may, as a condition of the acceptance of such tender, be required by such collector, officer or other person to pay to him the expense of recording such certificate; and, when such expense has been so paid, such collector, officer or other person shall be deemed to be authorized to record such certificate and shall forthwith cause the same to be filed for record in the proper registry of deeds. In case such a lien is deemed invalid by the board or officer in charge of the water department or by the collector of taxes, said board or officer or said collector may, at any time prior to a sale or taking under chapter sixty for a tax or part of a tax which includes or consists of such rates and charges, or prior to the addition of such tax or part of a tax to the tax title account, disclaim and release such lien by an instrument under the seal of such board or officer or collector and signed by such officer or collector or, on behalf of such board, by its authorized agent, and shall duly file the same for record in the proper registry of deeds, and at once give notice of such action to the collector, when such action is taken by the board or officer, or to the board or officer, when such action is taken by the collector. Water rates and charges the lien for which is so disclaimed and released and such rates and charges excluded by court decree under section seventy-six B of said chapter sixty shall, to the extent that they were properly chargeable to the person owning or to the tenant occupying the premises for which such rates and charges were incurred, be collectible against such person or tenant, as the case may be, and may be recovered in an action of contract at the instance of the board or officer in charge of the water department. If at the time of the filing of such disclaimer and release or of the entry of such decree such person or tenant is still the owner or tenant of the premises, whether through redemption or otherwise, such rates and charges, to the extent that they were properly chargeable to him, may be enforced in any other manner provided or available for collection and enforcement of water rates and charges.

1923, 891.	1936, 42, § 2.	1941, 880, § 3.
1924, 413.	1938, 415, § 2.	1947, 132.
1935, 56, § 1.		

**SECTION 42C. Unpaid accounts, commitment to collectors.** The collector of taxes shall have the same powers and be subject to the same duties with respect to unpaid accounts under sections forty-two A to forty-two F, inclusive, as in the case of the annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof and the redemption of land so sold or taken shall, except as otherwise provided, apply to unpaid ac-

counts charged upon real estate under said sections forty-two A to forty-two F, inclusive.

1923, 891.	1938, 415, § 3.	1941, 880, § 3.
1935, 248, § 1.		

**SECTION 42D. Unpaid accounts to bear interest and be added to tax bill.** Upon filing for record a statement under section forty-two B, the board or officer in charge of the water department shall add to the unpaid account, to be collected as a part thereof, a fee of one dollar for preparing and filing such statement. Said fee, when collected, shall be deemed to have been part of the original account due the city, town or water district and shall be accounted for as such. Upon commitment as a tax or part of a tax, as hereinafter provided, unpaid accounts under sections forty-two A to forty-two F, inclusive, shall be subject to the provisions of law relative to interest on the taxes of which they become, or, if the property were not tax exempt would become, a part.

If any account referred to in a statement filed for record under section forty-two B remains unpaid when the assessors are preparing the real estate tax list and warrant to be committed by them under section fifty-three of chapter fifty-nine next after the filing of such statement, the board or officer in charge of the water department shall certify such unpaid account to the assessors, who shall forthwith add such account to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as a part of such tax. If the property to which the account relates is tax exempt, the account shall be committed as the tax. Except as otherwise provided, the provisions of chapter fifty-nine and sixty shall apply, so far as pertinent, to any unpaid account certified to the assessors hereunder. If a disclaimer and release under section forty-two B is filed before a sale or taking for a tax or part of a tax which includes such account, or before the addition of such a tax or part of a tax to the tax title account under said chapter sixty, the amount of the water account and interest thereon shall be subtracted from such tax or part of a tax before such sale, taking or addition takes place.

1923, 891.	1938, 415, § 1.	1941, 884.
1935, 248, § 2.		

**SECTION 42E. Abatements Appeal.** An owner of real estate aggrieved by a charge imposed thereon under sections forty-two A to forty-two F, inclusive, in addition to such remedy as he may have under section ten of chapter one hundred and sixty-five, may apply for an abatement thereof by filing a petition with the board or officer having control of the water department within the time allowed by law for filing an application for abatement of the tax of which such charge is, or, if the property were not tax exempt, would have been, a part, and if such board or officer finds that such charge is more than is properly due, a reasonable abatement shall be made; and except as otherwise provided herein, the provisions of chapter fifty-nine relative to the abatement of taxes by assessors shall apply, so far as applicable, to abatements hereunder. If such petition is denied in whole or in part, the petitioner may appeal to the appellate tax board upon the same terms



(To be inserted in place of Sections 42A, 42B, 42C, and 42D, on Pages 15 and 16)

Section 42A. If the rates and charges due to a city, town or water district, which accepts this section and sections forty-two B to forty-two F, inclusive, by vote of its city council or of the voters in town or district meeting and, by its clerk, files a certificate of such acceptance in the proper registry of deeds, for supplying or providing for water or rendering service or furnishing materials in connection therewith to or for any real estate at the request of the owner or tenant are not paid on or before their due date as established by local regulations, ordinances or by-laws, which due dates shall be so established as to require payments at least as often as semi-annually, such rates and charges, together with interest thereon and costs relative thereto, shall be a lien upon such real estate as provided in section forty-two B. The register of deeds shall record such certificate of acceptance in a book to be kept for the purpose, which shall be kept in an accessible location in the registry. Notwithstanding the authority to establish such a lien such overdue rates and charges may be collected through any legal means, including the shutting off of water, which may be deemed advisable; provided, that after the termination of such a lien no city, town or water district shall attempt to enforce, by shutting off the water, collection of any water rates or charges included in such lien from any person, not liable therefor, who has succeeded to the title or interest of the person who incurred them. Sections forty-two B to forty-two F, inclusive, shall also apply to a water district which has accepted sections forty-two A to forty-two F, inclusive, and whose clerk has so filed the certificate of acceptance. Wherever in said sections the words "Board or officer in charge of the water department" or their equivalent appear, they shall also mean and include the officers exercising similar duties in any city, town or district. A fire district authorized to supply water shall, for the purposes of sections forty-two A to forty-two F, inclusive, be deemed to be a water district.

1954, 487, s 1

Section 42B. Such lien shall take effect by operation of law on the day immediately following the due date of such rate or charge and, unless dissolved by payment or abatement, shall continue until such rate or charge has been added to or committed as a tax under section forty-two C, and thereafter, unless so dissolved, shall continue as provided in section thirty-seven of chapter sixty, except that the date provided for termination of the lien in case of a recorded alienation shall be at the expiration of two years from October first of the year of such addition or committal. Anything in this section to the contrary notwithstanding, if any such rate or charge is not added to or committed as a tax under section forty-two C on or before December thirty-first of the year immediately following the year in which such rate or charge becomes due, the lien for such rate or charge shall terminate on October first of the third year following the year in which such rate or charge becomes due.

Notwithstanding such lien any such overdue rate or charge may be collected through any legal means, including the shutting off of water, which may be deemed advisable; provided, that after the termination of such a lien, no city, town or water district shall attempt to enforce, by shutting off the water, collection of such rate or charge from any person, not liable therefor, who has succeeded to the title or interest of the person incurring such rate or charge. All such rates and charges excluded by court decree under section seventy-six B of chapter sixty shall, to the extent that they were properly chargeable to the person owning, or to the tenant occupying, the premises for which such rates and charges were incurred, be recoverable from such person or tenant, as the case may be, in an action of contract or otherwise. If at the time of the entry of such decree such person or tenant is still the owner or tenant of the premises, whether through redemption or otherwise, such rates and charges to the extent that they were properly chargeable to him, may be enforced in any other manner



provided or available for collection and enforcement or water rates and charges.

1954, 487, s2

Section 42C. If a rate or charge for which a lien is in effect under section forty-two B has not been added to or committed as a tax and remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed by them under section fifty-three of chapter fifty-nine, the board or officer in charge of the water department shall certify such rate or charge to the assessors, who shall forthwith add such rate or charge to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as a part of such tax. If the property to which such rate or charge relates is tax exempt, such rate or charge shall be committed as the tax.

1954, 487, s 2.

Section 42D. Except as otherwise provided, the provisions of chapters fifty-nine and sixty shall apply, so far as pertinent, to all rates and charges certified to the assessors under section forty-two C. Without limiting the generality of the foregoing, upon commitment as a tax or part of a tax under section forty-two C, all such rates and charges shall be subject to the provisions of law relative to interest on the taxes of which they become, or, if the property were not tax exempt would become, a part; and the collector of taxes shall have the same powers and be subject to the same duties with respect to such rates and charges as in the case of annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof and the redemption of land so sold or taken shall, except as otherwise provided, apply to such rates and charges.

1954, 487, s 2.

and conditions as a person aggrieved by the refusal of the assessors of a city or town to abate a tax.

1923, 391.  
1932, 180, § 6.

1939, 451, § 7.  
1941, 385, § 5.

1941, 380, § 7.

**SECTION 42F. Recovery from tenants by owners paying charges.** An owner of real estate who, in order to prevent the imposition of a lien thereon or to discharge the same, has paid charges for water furnished to a tenant or other person who was bound to pay the same, may recover from such tenant or other person in an action of contract the amount of the charges so paid with all incidental costs and expenses.

Sections forty-two A to forty-two F, inclusive, of

chapter forty of the General Laws, as amended or affected by this act, shall continue to apply without further acceptance to all cities, towns, water districts and fire districts supplying water to which said sections applied immediately prior to the time of taking effect of this act. Said sections, as amended or affected by this act, shall also apply to all cities, towns, water districts and fire districts authorized to supply water which after said time accept said sections and file a certificate of such acceptance in the proper registry of deeds, as provided in said section forty-two A, as hereby amended, or which, having accepted said sections prior to said time, thereafter file such certificate as so provided.

312 Mass. 471.  
1923, 391.

1938, 415, § 7.

1941, 380, § 7.

## CHAPTER 41.

# OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS.

## ELECTION OF TOWN OFFICERS.

### SECT. ELECTION OF TOWN OFFICERS.

1. Officers to be elected.
2. New board of officers. Increase or decrease in membership of board.
- 4A. Town board may appoint any member thereof to another Town office or position.

### SELECTMEN.

21. Vote authorizing selectmen to act as or appoint other officers.
22. Term of office and salary of appointees.
- 69A. Board of water commissioners, election, etc.
- 69B. Water commissioners to have control of the Water department, etc.

### PLANNING BOARD.

70. Appointment and duties.

### INSPECTOR OF HEALTH.

102. Appointment and duties.
- 102A. School physician may be inspector of health in certain towns.
- 106A. School physician may be town physician in certain towns.

**SECTION 1. Officers to be Elected.** Every town at its annual meeting shall in every year when the term of office of any incumbent expires, and except when other provision is made by law, choose by ballot from its registered voters the following town officers for the following terms of office:

1785, 52, § 1; 75, § 2.	1893, 304, § 1; 417,	1913, 835, §§ 400,
1826, 143, § 5.	§ 266.	403, 405, 503.
R. S. 15, § 33; 19,	1894, 16; 218;	1913, 257, §§ 151,
§ 16; 23, § 10.	473, § 1.	152; 291, § 26.
1857, 270, §§ 1, 2, 4.	1895, 374, § 1; 506,	1919, 5.
1859, 264.	§§ 2, 3.	1920, 2; 591.
G. S. 18, § 31; 38,	1896, 190, § 1; 319.	§§ 33, 35.
§§ 16, 21.	1898, 548, §§ 331,	1934, 155, § 1.
1871, 158.	332, 334.	1938, 341, § 2.
1874, 389.	1899, 330, § 1.	1939, 129.
1877, 186.	1901, 432.	1939, 3.
1878, 255.	R. L. 11, §§ 334-336,	1943, 453, § 3.
1879, 223, § 4.	338.	G. L. 41, § 1.
P. S. 27, § 78; 44,	1907, 560, §§ 362,	Op. A. G. (1918) 115.
§§ 21, 26.	364, 366, 456.	1923, 66.
1886, 150; 295, § 1.	1911, 222.	1925, 178.
1888, 221, § 1.		

Three members of the board of health for the term of three years if the town provides for such board, otherwise the selectmen shall act as a board of health.

In any case where three or more members of a board are to be elected for terms of more than one year, as nearly one-third as may be shall be elected annually.

182 Mass. 39.

194 Mass. 51.

**SECTION 2. New Board of Officers. Increase or Decrease in Membership of Board.** Where the town elects a new board or officer to perform the duties of an existing board or officer, the office of such existing board or officer shall terminate upon the qualification of the new board or officer. Where official ballots are used, the establishment of a new board or office, or the fixing of the term of office of town officers where such term is optional, or the increase or reduction of the number of members of a board, shall be determined at a meeting held at least thirty days before the annual meeting. In towns not using official ballots the matter may be determined by vote at the annual meeting. Such vote shall continue in effect until rescinded. If a town votes to increase the number of members of any board, such increase shall be made by adding one or more to each class, to hold office according to the tenure of the class to which they are severally chosen, as will within three years effect it, and such vote to increase shall remain in force until the increase under it is accomplished. If a town votes to diminish the number of members of any board, such diminution shall be made by choosing annually such number as will within three years effect it, and a vote to diminish shall remain in force until the diminution under it is accomplished. If a town votes to reduce a board of three members to a single officer, such vote shall take effect at the following annual town meeting, and upon the election and qualification of such officer the term of said board shall terminate; provided, that in towns where official ballots are used, unless the vote thus passed is more than thirty days prior to the annual town meeting, it shall not take effect until the succeeding annual town meeting.

1878, 255.	R. L. 11, §§ 337,	1920, 591, §§ 33, 35;
P. S. 27, §§ 64-69, 73.	339, 340.	638.
1893, 417, §§ 267-270.	1907, 560, §§ 365,	C. L. 41, § 2.
1895, 374, § 2.	367, 368, 456.	185 Mass. 85.
1898, 548, §§ 333,	1913, 835, §§ 404,	221 Mass. 223.
335, 336.	406, 407, 503.	7 Op. A. G. 417.

The members of the board of health of a town cannot be removed by a vote of the inhabitants of



the town. *Attorney-General v. Stratton et al.*, 194 Mass. 51.

**SECTION 4A. Town Board may appoint any Member thereof to another Town Office or Position.** Except as otherwise expressly provided, a town board may, if authorized by vote of the town, appoint any member thereof to another town office or position for the term provided by law, if any, otherwise for a term not exceeding one year. The salary of any such appointee shall be fixed by vote of the town, notwithstanding the provisions of section one hundred and eight. In this section, the word "town" shall not include city.

1929, 86.

G. L. 41, § 4A.

#### SELECTMEN.

**SECTION 21. Vote authorizing Selectmen to act as or appoint Other Officers.** Ten per cent of the registered voters in any town may file a petition with the selectmen thirty days or more before the annual town meeting asking that the selectmen act as a water and sewer board, water commissioners, water and municipal light commissioners, municipal light board, sewer commissioners, park commissioners, board of health, assessors or board of public welfare, or perform the duties of such boards or officers or any of them, or that cemetery commissioners, assessors, a superintendent of streets, a chief of the police and fire departments or a tree warden be thereafter appointed by the selectmen. The selectmen shall thereupon direct the town clerk to cause the question whether the petition shall be granted to be printed upon the official ballot used for the election of town officers at the next annual election in substantially the following form:

Shall the town vote to have its selectmen act as.....? 

YES
NO

Shall the town vote to have its selectmen appoint.....? 

YES
NO

If a town, in which the selectmen are elected for terms of one year, shall vote in accordance with this section that its selectmen shall act as or perform the duties of any of the aforesaid boards or officers, it shall, at the next annual meeting, elect one selectman for one year, one for two years and one for three years, or, if five are to be elected, one for one year, two for two years and two for three years, and thereafter in either event shall elect them for terms of three years. Upon the election and qualification of the selectmen at such next annual meeting, and upon the appointment and qualification by oath of the officers herein authorized to perform the duties of any existing town board or officer, the term of office of such existing board or officer shall thereupon terminate, and all the duties, powers and obligations of said boards and officers shall be transferred to and imposed upon their successors.

1920, 591, §§ 86, 46, 47.

G. L. 41, § 21.  
1921, 130.

1931, 394, § 113.  
1934, 155, § 2.

**SECTION 22. Term of Office and Salary of Appointees.** Officers appointed by authority of a vote under the preceding section shall hold office until

removed by the selectmen, and shall receive such salary as the selectmen may determine, subject to the appropriations of the town therefor; and any vacancies existing in any of said offices, under the supervision and control of the selectmen, shall be filled in the manner of an original appointment.

1920, 591, § 44.

G. L. 41, § 22.

241 Mass. 414.

**SECTION 69A. Board of Water Commissioners, election, etc.** Any town establishing a water supply or water distributing system under authority of section thirty-nine A of chapter forty may establish a board of three water commissioners or authorize its selectmen to act as such. Such commissioners shall, in the first instance, be elected by ballot to hold office, one until the expiration of three years, one until the expiration of two years, and one until the expiration of one year, from the next succeeding annual town meeting; and at the annual town meeting held on the day on which the shortest of such terms expires, and at each annual town meeting thereafter, one such commissioner shall be elected by ballot for the term of three years. A majority of said commissioners shall constitute a quorum for the transaction of business. After the election of a board of water commissioners under authority of this section, any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by said town at any legal town meeting called for the purpose. Any such vacancy may be filled temporarily in the manner provided by section eleven, and the person so appointed shall perform the duties of the office until the next annual meeting of said town or until another person is qualified. Nothing herein contained shall prevent action under section twenty-one or sixty-nine.

1938, 172, § 4.

**SECTION 69B. Water Commissioners to have control of the Water Department, etc.** The water commissioners, or the selectmen authorized to act as such, in a town establishing a water supply or water distributing system under authority of section thirty-nine A of chapter forty shall have exclusive charge and control of the water department and water system, subject to all lawful by-laws and to such instructions, rules and regulations as the town may from time to time impose by its vote. They may establish fountains and hydrants, may relocate or discontinue the same, may regulate the use of the water and fix and collect just and equitable prices and rates for the use thereof, and shall prescribe the time and manner of payment of such prices and rates. The income of the water works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they accrue upon any bonds or notes issued for the purpose of a municipal water supply. If in any year there should be a net surplus remaining after providing for the aforesaid charges for that year, such surplus, or so much thereof as may be necessary to reimburse the town for moneys theretofore paid on account of its water department, shall be paid into the town treasury. If in any year there should be a net surplus remaining after providing for the aforesaid charges and for the payment of any such reimbursement in full, such surplus may be appropriated for



such new construction as the water commissioners, or selectmen authorized to act as such, with the approval of the town, may determine upon; and in case a net surplus should remain after payment for such new construction the water rates shall be reduced proportionately. Said commissioners, or the selectmen authorized to act as such, shall annually, and as often as the town may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of the receipts and expenditures.

1938, 172, § 4.

#### PLANNING BOARD. — *see green sheet*

**SECTION 70. Appointment and Duties.** Every city and every town having a population of more than ten thousand at the last preceding national or state census shall, and towns having a population of less than ten thousand may, create a planning board, which shall make careful studies of the resources, possibilities and needs of the town, particularly with respect to conditions injurious to the public health or otherwise in and about rented dwellings, and make plans for the development of the municipality, with special reference to proper housing of its inhabitants. In cities the said board shall be appointed by the mayor, subject to confirmation by the council, and in towns shall be elected at the annual town meeting.

No planning board shall be established under this section after December thirty-first, nineteen hundred and thirty-six, but any such board established under this section or corresponding provisions of earlier laws and existing on said date shall con-

tinue until its existence is terminated under section eighty-one B.

1913, 494, § 1.  
1914, 283, § 1.  
G. L. 41, § 70.

1936, 211, § 1.  
1947, 840, § 1.

4 Op. A. G. 158.  
1941 Op. A. G. 45.

#### INSPECTOR OF HEALTH.

**SECTION 102. Appointment and Duties.** If a town votes under section twenty-one to have its selectmen act as a board of health, the selectmen may appoint an inspector of health, who shall assist the selectmen in the performance of their duties as such board.

1920, 591, § 38.

G. L. 41, § 102.

**SECTION 102A. School Physician may be Inspector of Health in Certain Towns.** In any town of not exceeding three thousand inhabitants which votes under section twenty-one to have its selectmen act as a board of health and which accepts this section by vote in town meeting, the selectmen may appoint the school physician to be inspector of health, with the duties set forth in section one hundred and two. Such appointment shall not bar the school physician from the general practice of his profession.

G. L. 41, § 102A.

1925, 303, § 3.

**SECTION 106A. School Physician may be Town Physician in Certain Towns.** In any town of not exceeding three thousand inhabitants which accepts this section by vote in town meeting, the selectmen may appoint the school physician to be the town physician. Such appointment shall not bar the school physician from the general practice of his profession.

G. L. 41, § 106A.

1925, 303, § 4.

## CHAPTER 44.

## MUNICIPAL FINANCE.

#### SECT. MUNICIPAL INDEBTEDNESS.

7. Purposes for which cities and towns may borrow within the debt limit.

#### DEPARTMENT APPROPRIATIONS.

31. Liability not to be incurred in excess of appropriations, etc.  
31A. Budgets in Cities.

#### MUNICIPAL INDEBTEDNESS.

**SECTION 7. Purpose for which Cities and Towns may borrow within the Debt Limit.** Cities and towns may incur debt, within the limit of indebtedness prescribed in section ten, for the following purposes, and payable within the periods hereinafter specified, but, except for the purposes set forth in clauses three A and eleven, no loan shall be authorized in any year under any one of the following clauses unless a sum equal to twenty-five cents, or in the case of Boston ten cents, on each one thousand dollars of the assessed valuation of the city or town for the preceding year, exclusive of the value of motor vehicles and the value of ships and vessels on which a vessel excise tax is based has been appropriated from available revenue funds or voted to be

raised by taxation for the purpose set forth in such clause in the year when the loan is authorized.

1891, 321.

1913, 719, §§ 1, 5.

G. L. 44, § 7.

1923, 338.

1928, 64; 324.

1931, 164.

1936, 224, § 5.

1946, 358, § 18.

1947, 207, § 1.

251, Mass. 82.

297, Mass. 561.

1 Op. A. G. 24.

4 Op. A. G. 261.

6 Op. A. G. 516.

7 Op. A. G. 598.

(1) For the construction of sewers for sanitary and surface drainage purposes and for sewage disposal, thirty years.

P. S. 29, § 8.

1892, 245, § 6.

R. L. 27, § 11.

1903, 375.

1913, 719, § 5, subs. 1.

G. L. 44, § 7.

(3A) For remodeling or reconstructing public buildings owned by the city or town, ten years. No loan shall be authorized in any year under this clause unless a sum equivalent to one dollar on each one thousand dollars of the assessed valuation of the city or town for the preceding year has been appropriated from available revenue funds or voted to be raised by taxation for the purpose set forth in the year when the loan is authorized.

1947, 207, § 2.

(10) For the purchase of land for cemetery purposes, ten years.

1913, 719, § 5, subs. 10.

G. L. 44, § 7.



(13) For connecting dwellings or other buildings with common sewers, when the cost is to be assessed in whole or in part on the abutting property owners, five years.

1899, 819, § 1.      1913, 719, § 5,      G. L. 44, § 7.  
R. L. 49, § 31.      subs. 13.

(14) For the abatement of nuisances in order to conserve the public health, five years.

1913, 719, § 5, subs. 14.      G. L. 44, § 7.

(15) For extreme emergency appropriations involving the health or safety of the people or their property, five years.

1875, 209 § 3.      1913, 719, § 5,      3 Op. A. G. 422, 565.  
P. S. 29, § 7.      subs. 15.      4 Op. A. G. 184.  
R. L. 27, § 8.

Debts may be authorized under this section only by a two-thirds vote.

1913, 719, § 5.

**SECTION 8. Purposes for which Cities and Towns may borrow outside the Debt Limit.** Cities and towns may incur debt, outside the limit of indebtedness prescribed in section ten, for the following purposes and payable within the periods hereinafter specified:

1913, 719, §§ 1, 6.      1928, 291.      7 Op. A. G. 597, 598.  
G. L. 44, § 8.      4 Op. A. G. 261.      8 Op. A. G. 495.

(2) For maintaining, distributing and providing food, other common necessities of life and temporary shelter for their inhabitants upon the occasions and in the manner set forth in section nineteen of chapter forty, two years.

1913, 205, § 4.

(3) For establishing or purchasing a system for supplying a city or town and its inhabitants with water, for taking or purchasing water sources, or water or flowage rights, or for taking or purchasing land for the protection of a water system, thirty years.

1870, 93, §§ 2, 3.      1895, 488, § 21.      1938, 172, § 5.  
1873, 255      R. L. 25, § 32;      218 Mass. 161.  
1875, 209, § 4.      27, § 11.      315 Mass. 339.  
P. S. 27, §§ 28, 29;      1903, 375.      4 Op. A. G. 261.  
29, § 8.      1913, 719, § 6,      933 Op. A. G. 81.  
1892, 245, § 6.      subs. 2.      1937, Op. A. G. 107.

(4) For the construction of filter beds, standpipes, reservoirs and buildings for pumping stations, twenty years.

(5) For laying and relaying water mains of not less than six inches but less than sixteen inches in diameter and for the development of additional well fields, including wells, pipes, and original pumping station equipment, fifteen years.

1941, 83.

(6) For construction and laying aqueducts and water mains of sixteen inches or more in diameter, twenty-five years.

(7) For the extension of water mains and for water departmental equipment, five years.

1937, Op. A. G. 110.

(11) For the payment of an assessment for a proportionate share of the expense of construction of a county tuberculosis hospital under section

eighty-three of chapter one hundred and eleven, twenty years.

1928, 201.

(13) For establishing of public airports, including the acquiring of land, grading and constructing suitable surface on such fields, the construction of necessary buildings and the original equipment and furnishing of same, ten years; but the outstanding indebtedness so incurred shall not exceed one per cent of the last preceding assessed valuation of the city or town. The proceeds of indebtedness incurred hereunder may be expended for the establishment of such an airport jointly by two or more municipalities.

1946, 358, 15.

1947, 298, § 4.

#### DEPARTMENT OF APPROPRIATIONS.

**SECTION 31. Liability not to be incurred in Excess of Appropriation, etc.** No department financed by municipal revenue, or in whole or in part by taxation, of any city or town, except Boston, shall incur a liability in excess of the appropriation made for the use of such department, each item recommended by the mayor and voted by the council in cities, and each item voted by the town meeting in towns, being considered as a separate appropriation, except in cases of extreme emergency involving the health or safety of persons or property, and then only by a vote in a city of two-thirds of the members of the city council, and in a town by a vote of two-thirds of the selectmen.

1913, 719, § 1, 16.      295 Mass. 119, 146,      306 Mass. 265.  
G. L. 44, § 31.      588.      6 Op. A. G. 573.  
1946, 358, § 23.      297 Mass. 513, 566.      1936 Op. A. G. 106.  
286 Mass. 553.      303 Mass. 429, 563.

**SECTION 31A. Budgets in Cities.** Every officer of any city except Boston having charge of, or jurisdiction over, any office, department or undertaking, requesting an appropriation shall, between November first and December first of each year, furnish the mayor and the city auditor, or officer having similar duties, on forms provided by the city auditor or officer having similar duties, and approved by the division of accounts in the department of corporations and taxation, detailed estimates of the full amounts deemed necessary for the then ensuing year for the ordinary maintenance of the office, department or undertaking under his charge or jurisdiction, and for expenditures other than the ordinary maintenance, with the amounts, if any, expended for similar purposes during the then preceding year and during the first ten months of the then current year, and an estimate of the amounts required to be expended for such purposes during the last two months of the then current year, giving explanatory statements of any differences between the amount of any estimate for the then ensuing year and the amount expended or estimated to be required as aforesaid.

The information hereby required to be furnished shall set forth the number of permanent or temporary employees, or both, requested in each classification or rating in the then ensuing year and the number of permanent or temporary employees, or both, employed on October thirty-first of the then current year, or the nearest week-end thereto, ex-

## Chapter 44

(To be inserted at the end of Section 8 on page 20.)

(14) For the financing of a program of eradication of Dutch elm disease, including all disbursements on account of which reimbursement is authorized or may be authorized by the commonwealth, county, any city or town, or by any manner of assessment or charges, pursuant to and consistent with the provisions of chapter one hundred and thirty-two, five years.

1954, 106





OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS

CHAP. 41

(to be inserted after section 70 on page 19)

SECTION 81M (third paragraph, third sentence)  
No such subdivision shall be approved until the local board of health has advised the planning board, in writing, that it has approved the proposed method of providing for sanitary

water supply, sewage disposal and drainage. The provisions of this act shall also apply to any subdivision approved by a planning board prior to its effective date if no building has been constructed in such subdivision.

1952, 134-





cept laborers and persons performing the duties of laborers, with the annual, monthly, weekly or hourly compensation of such employees, and shall state whether such compensation is fixed by ordinance or otherwise and whether or not such employees are subject to chapter thirty-one.

The foregoing shall not prevent any city, upon recommendation of the mayor, from so setting forth the number of permanent or temporary laborers and persons performing the duties of laborers, or both

such permanent and temporary laborers and persons, with the annual, monthly, weekly or hourly compensation of such employees.

The city auditor, or officer having similar duties, shall forthwith at the close of each year furnish the mayor with a written report of the money received from estimated receipts applicable to the payment of expenditures of that year, with an estimate of such receipts for the next succeeding year.

1941, 478, § 1.

313 Mass. 461.

316 Mass. 286.

## CHAPTER 45.

## PUBLIC PARKS, PLAYGROUNDS AND PUBLIC DOMAIN.

## SECT. PLAYGROUNDS.

17. Temporary playgrounds.

## THE PUBLIC DOMAIN.

19. Laying out and use of public domain.

## PENALTY.

24. Penalty for violation of rules and regulations.

**SECTION 17. Temporary Playgrounds.** If in a town in the metropolitan parks district, or in any city, tenement buildings are built about or contiguous to open spaces, the owners of such buildings may apply to the park commissioners, if any, or, in a city or town of said district having no park commission, to the metropolitan district commission, and said boards may, with the approval of the board of health of the city or town, take a lease of such open spaces for a neighborhood playground for a term not exceeding fifteen years, subject to renewal at a rental not exceeding the taxes thereon. The owners of such buildings shall have the care and control thereof under the supervision of the park commissioners, or if there are none, of the selectmen.

1898, 831.  
R. L. 28, § 22.

1919 350, § 123.

G. L. 45, § 17.

## THE PUBLIC DOMAIN.

**SECTION 19. Laying out and Use of Public Domain.**

A town, by a two thirds vote at an annual town

meeting, or a city, by a two thirds vote of the city council, may determine to take or purchase land within its limits, which shall be a public domain, and may appropriate money and accept gifts of money and land therefor. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town, and the title thereto shall vest in the city or town in which it lies, except that cities or towns owning land within the territorial limits of other cities and towns for water supply purposes may, as herein provided, convert such land into a public domain and retain the title thereto.

1882, 255, §§ 1, 6.  
R. L. 28, § 23.1913, 564, § 1.  
1915, 162, § 1.

G. L. 45, § 19.

## PENALTY.

**SECTION 24. Penalty for Violation of Rules and Regulations.** Whoever violates any rule or regulation for the government or use of any land or way taken or held under this chapter or for like purposes under any special act, and made under authority of law by any board or officer in charge thereof, shall be punished by a fine of not more than twenty dollars.

1896, 199.

R. L. 28, § 30.

G. L. 45 § 24.

## CHAPTER 46.

## RETURN AND REGISTRY OF BIRTHS, MARRIAGES AND DEATHS.

## SECT.

3. Physician or officer to record and make report of births. Fee. Penalty. Daily list to board of health.
9. Physician or officer to give death certificate. Penalty.
10. Physician or officer to state causes of death of soldier or sailor. Penalty.
11. Undertakers to make returns; etc.
12. Copies of records of births and deaths, etc.
13. Correction of errors in record.
- 13A. Records of Certain Births upon Determination of Facts by City or Town Clerk or by Probate Court.
14. Penalty for false return.
16. Blank forms to be furnished to towns, etc.
19. Clerk's record to be prima facie evidence.
29. Attestation of copies under seal.

**SECTION 3. Physician or Officer to record and make Report of Births. Fee. Penalty. Daily List to Board of Health.** Every physician, or hospital

medical officer registered under section nine of chapter one hundred and twelve, in this chapter called officer, shall keep a record of the birth of every child in cases of which he was in charge, showing date and place of birth, the name, if any, of the child, its sex and color, the name, age, birthplace, occupation and residence (including the street number, if any, and the ward number, if in a city) of each parent, the maiden name of the mother and the name of the physician or officer, if any, personally attending the birth. If the child is illegitimate, the name of and other facts relating to the father shall not be set forth except upon written request of both



the father and mother; provided, that if an illegitimate child shall have become legitimate by the intermarriage of his parents and the acknowledgment of his father, as provided in section seven of chapter one hundred and ninety, prior to the mailing or delivery of any report herein required, such report shall read, in all respects, as if such child had been born to such parents in lawful wedlock. Said physician or officer shall, within fifteen days after such birth, mail or deliver to the clerk or registrar of the town where such birth occurred, a report stating the facts hereinabove required to be shown on said record and also the said written request, if any; provided, that if said report is not so made within forty-eight hours after such birth, said physician or officer shall, within said forty-eight hours, mail or deliver to said clerk or registrar a notice stating the date and place of the birth, the street number, if any, the ward number, if in a city, and the family name. Upon presentation to him of a certificate of the town clerk stating that any such birth has been duly reported, the town treasurer shall pay to such physician or officer a fee of twenty-five cents for each birth so reported. Any physician or any such officer violating any provision of this section shall forfeit not more than twenty-five dollars.

The said town clerk or registrar shall file daily with the local board of health a list of all births reported to him, showing, as to each, the date of birth, sex, color, family name, residence, ward and physician or officer in charge. **Reporting of Congenital Deformities, etc., in infants.** Within sixty days after the date of the birth of any child born in the commonwealth with visible congenital deformities, or any condition apparently acquired at birth which may lead to crippling, the physician in attendance upon said birth shall prepare upon a form provided by the state department of public health and file with the clerk of the town where such birth occurred a report setting forth such visible congenital deformity, or any condition apparently acquired at birth which may lead to crippling. Said clerk shall transmit forthwith to said department such supplementary report of such birth. The contents of such report shall be solely for the use of said department in connection with its functions relative to crippled children, and such report shall not be open to public inspection or constitute a public record.

1865, 96.	1897, 444, § 3.	1920, 244, § 2.
1880, 38, §§ 1, 3.	R. L. 29, § 8.	1925, 281, § 1.
P. S. 32, §§ 7, 9.	1910 98, § 1.	1939, 326, § 1.
1883, 158, § 1.	1912, 280, §§ 1, 2.	6 Op. A. G. 208.
1889, 288.	G. L. 46, § 3.	

**SECTION 9.** A physician or registered hospital medical officer shall forthwith, after the death of a person whom he has attended during his last illness, at the request of an undertaker or other authorized person or of any member of the family of the deceased, furnish for registration a standard certificate of death, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, defined as required by section one, where same was contracted, the duration of his last illness, when last seen alive by the physician or officer and the date of his death. A physician or officer attending at the birth of a child dying immediately thereafter, or a physician or

officer attending at the birth of a child born dead, shall forthwith furnish for registration a certificate, stating that to the best of his knowledge and belief such child either died immediately after birth or was born dead. Both the birth and death of such child shall be recorded and, if it was born dead, the word "stillborn", shall be entered in both the record of birth and death. A stillborn child shall be deemed to be a foetus born after a period of gestation of not less than twenty weeks, in which foetus there is no attempt at respiration, no action of heart and no movement of voluntary muscle. A physician or any such officer neglecting or refusing to make such certificate or making a false statement therein shall forfeit not more than fifty dollars.

G. S. 21, § 8.	R. L. 29, § 10.	1945, 113.
P. S. 32, § 3.	1910, 322, § 2.	4 Op. A. G. 406.
1888, 63; 306, § 1.	1920, 244, § 2.	Op. A. G. (1926), 138.
1893, 263, § 1.	G. L. 46, § 9.	8 Op. A. G. 141.
1897, 444, § 10.	1936, 100.	

**SECTION 10. Physician or Officer to State Causes of Death of Soldier or Sailor. Penalty.** A physician or officer furnishing a certificate of death as required by the preceding section or by section forty-five of chapter one hundred and fourteen, shall, if the deceased, to the best of his knowledge and belief, served in the army, navy or marine corps of the United States in any war in which it has been engaged, insert in the certificate a recital to that effect, specifying the war, and shall also certify in such certificate both the primary and the secondary or immediate cause of death as nearly as he can state the same. For neglect to comply with any provision of this section, such physician or officer shall forfeit ten dollars. For the purposes of this section and of sections forty-five, forty-six and forty-seven of said chapter one hundred and fourteen, the word "war" shall include the China relief expedition and the Philippine insurrection, which shall, for said purposes, be deemed to have taken place between February fourteenth, eighteen hundred and ninety-eight and July fourth, nineteen hundred and two, and the Mexican border service of nineteen hundred and sixteen and nineteen hundred and seventeen.

1889, 224.	R. L. 29, § 11.	G. L. 46, § 10.
1897, 444, § 11.	1920, 244, § 2.	1926, 248, § 1.

**SECTION 11. Undertakers to make Returns, etc.** Every undertaker or other person in charge of a funeral shall forthwith obtain the physician's or officer's certificate required by section nine, enter thereon the facts as to the deceased required by section one to be recorded, and return it to the board of health or its agent, or, if the selectmen constitute such board, to the clerk of the town where the death occurred. The person making such return shall receive from the town a fee of twenty-five cents. The board of health shall transmit such certificate to the town clerk.

1844, 159, § 4.	1873, 202.	1920, 244, § 2.
1849, 202, § 8.	P. S. 32, § 4.	G. L. 46, § 11.
G. S. 21, § 4.	1897, 444, § 12.	200 Mass. 479.
1872, 275, § 1.	R. L. 29, § 12.	4 Op. A. G. 406.

**SECTION 12. Copies of Births and Deaths, etc.** Except as hereinafter provided, the clerk of a city or town shall forthwith make a certified copy of the record of each birth and death recorded during the preceding month, if the parents of the child born

(To be inserted in place of Section 9, on page 22.)

Section 9. A physician or registered hospital medical officer shall forthwith, after the death of a person whom he has attended during his last illness; at the request of an undertaker or other authorized person or of any member of the family of the deceased, furnish for registration a standard certificate of death, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, defined as required by section one, where same was contracted, the duration of his last illness, when last seen alive by the physician or officer and the date of his death. The cause, or causes, of death shall be printed or typed on all certificates required to be furnished under this section. A physician or officer attending at the birth of a child dying immediately thereafter, or a physician or officer attending at the birth of a child born dead, shall forthwith furnish for registration a certificate, stating that to the best of his knowledge and beliefsuch child either died immediately after birth or was born dead. Both the birth and death of such child shall be recorded and, if it was born dead, the word "stillborn", shall be entered in both the record of birth and death. A stillborn child shall be deemed to be

a foetus born after a period of gestation of not less than twenty weeks, in which foetus there is no attempt at respiration, no action of heart and no movement of voluntary muscle. A physician or any such officer neglecting or refusing to make such certificate or making a false statement therein shall forfeit not more than fifty dollars.

G.S. 21, s 3.	G.L. 46, s 9.
P.S. 32, s 3.	1936, 100
1888, 63; 306, s 1.	1945, 113.
1893, 263, s 1.	4 Op. A.G. 406.
1897, 444, s 10.	Op. A.G. (1926), 138.
S.L. 29, s 10.	8 Op. A.G. 141.
1910, 322, s 2.	1954, 137.
1920, 244, s 2.	





were at the time of said birth residents of any other city or town in the commonwealth or in any other state, or if the deceased at the time of his death was a resident of any other city or town aforesaid or was a war veteran and was buried in any other city or town aforesaid, and transmit such certified copy to the clerk of the city or town where such parents or deceased person were so resident, setting forth the name of the street and number of the house, if any, where such parents or deceased person so resided and, in the case of a deceased war veteran as aforesaid, to the clerk of the city or town where he was buried, setting forth the cemetery or other place of burial; and the clerk of a city or town in the commonwealth receiving such a certified copy, or receiving a certified copy of the record of a birth, marriage or death or of the burial of a war veteran from the clerk of a city or town without the commonwealth, shall record the same and transmit to the state secretary a certified copy thereof. No birth record of a child born out of wedlock or of a child of abnormal sex shall so be transmitted to any other city or town.

1889, 208.

1910, 93, § 3.

1887, 78, § 1.

1897, 444, § 13.

G. L. 46, § 12.

1945, 439.

R. L. 29, § 13.

1931, 132, 230.

**SECTION 13. Correction of Errors in Record.** If the record relating to a birth, marriage or death does not contain all the required facts, or if it is claimed that the facts are not correctly stated therein, the town clerk shall receive an affidavit containing the facts required for record, if made by a person required by law to furnish the information for the original record, or, at the discretion of the town clerk, by credible persons having knowledge of the case.

If a person shall have acquired the status of a legitimate child by the intermarriage of his parents and the acknowledgment of his father or an adjudication of paternity under chapter two hundred and seventy-three, as provided in section seven of chapter one hundred and ninety, the record of his birth shall be amended or supplemented as hereinafter provided so as to read, in all respects, as if such person had been reported for record as born to such parents in lawful wedlock. For such purpose, the town clerk, if satisfied as to the identity of the persons and the facts, shall receive an affidavit setting forth the material facts, executed by the parents, or by either if the other is dead, or shall receive such an affidavit executed by the mother alone in the case of a child who has acquired the status of a legitimate child by the intermarriage of his parents and an adjudication of paternity as aforesaid, or shall receive, if both parents are dead, affidavits of the fact of such intermarriage, and of the acknowledgment of the father or of an adjudication of paternity as aforesaid, and of the death of each parent, executed by credible persons having knowledge of such facts, together with evidence substantiating such facts beyond all reasonable doubt, which affidavits and evidence shall have been submitted by the town clerk to a judge of probate or to a justice of a district court and shall have been approved by such judge or justice. Each such affidavit executed by the parent or parents shall be accompanied by a certified copy of the record of such intermarriage, if not recorded in the record in

the custody of such clerk; and such affidavits executed by credible persons as aforesaid shall be accompanied by a certified copy of the record of such intermarriage and of the death of each parent, if not recorded in such records. Each affidavit of the fact of an adjudication of paternity as aforesaid shall be accompanied by a certified copy of such adjudication.

If a person shall have acquired the status of a legitimate child by the intermarriage of his parents and the acknowledgment of his father, as provided in section seven of chapter one hundred and ninety, the record of his birth shall be amended or supplemented as hereinafter provided so as to read, in all respects, as if such person had been reported for record as born to such parents in lawful wedlock. For such purpose, the town clerk, if satisfied as to the identity of the persons and the facts, shall receive an affidavit executed by the parents, or by either if the other is dead, setting forth the material facts or shall receive, if both parents are dead, affidavits of the fact of such intermarriage, of the acknowledgment of the father, and of the death of each parent, executed by credible persons having knowledge of such facts, together with evidence substantiating such facts beyond all reasonable doubt, which affidavits and evidence shall have been submitted by the town clerk to a judge of probate or to a justice of a district court and shall have been approved by such judge or justice. Each such affidavit executed by the parent or parents shall be accompanied by a certified copy of the record of such intermarriage, if not recorded in the records in the custody of such clerk; and such affidavits executed by credible persons as aforesaid shall be accompanied by a certified copy of the record of such intermarriage and of the death of each parent, if not recorded in such records.

If, however, the birth of such a child was recorded as that of a legitimate child of the mother and the man who was her husband at the time of such birth, the record shall not be amended as provided in this section unless the illegitimacy has been legally determined or has been admitted by the affidavit of the mother and such husband, or, if the town clerk is satisfied that both the mother and such husband cannot be located, by the affidavit of either of them and by evidence substantiating the statements in such affidavit beyond all reasonable doubt, which affidavit and evidence shall have been submitted by the town clerk to a judge of probate or to a justice of a district court and shall have been approved by such judge or justice.

If a person of illegitimate birth shall have acquired a new name by judicial decree, or if a person of legitimate birth shall have been adopted by judicial decree, the town clerk shall receive a certified copy of such decree.

He shall file any affidavit, certified copy of such decree or copy of record submitted under this section and record it in a separate book kept therefor, with the name and residence of the deponent or the facts of such decree and the date of the original record, and shall thereupon draw a line through any statement, or statements, sought to be corrected or amended in the original record, without erasing them, shall enter upon the original record, the facts



required to correct, amend or supplement the same in accordance with such affidavit or decree, including, in case of a decree of adoption, the same facts relative to the adopting parents as are required in a record of birth by the provisions of section one relative to natural parents, and forthwith, if a copy of the record has been sent to the state secretary, shall forward to the state secretary a certified copy of the corrected, amended or supplemented record upon blanks to be provided by him, and the state secretary shall thereupon correct, amend or supplement the record in his office. Reference to the record of the affidavit or such decree shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such a record, he shall certify to the facts contained therein as corrected, amended or supplemented; except that the clerk shall, upon proper judicial order, or when requested by a person seeking his own birth record, or by a person whose official duties, in the opinion of the clerk, entitle him to the information contained in the original record, furnish a copy of such original record. If the corrected, amended or supplemented record is that of a person who has acquired the status of a legitimate child, the clerk shall not indicate on such copy that the record has been corrected, amended or supplemented. Such affidavit, or a certified copy of the record of any other town or of a written statement made at the time by any person since deceased required by law to furnish evidence thereof, may, in the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of record may also be made the basis for completing the record of a birth, marriage or death not containing all the required facts.

1892, 305, § 1.	1930, 169.	1941, 50.
1894, 402.	1931, 258.	1943, 72, § 2.
1897, 444, § 14.	1933, 280, § 2.	1945, 65.
R. L. 29, § 14.	1938, 63.	6 Op. A. G. 621.
G. L. 46, § 13.	1938, 97.	Op. A. G. (1928), 33.
1925, 281, § 2.	1939, 61, § 34.	8 Op. A. G. 390, 591.

**SECTION 13A. Records of Certain Births upon Determination of Facts by City or Town Clerk or by Probate Court.** A person who is unable to furnish an affidavit for the establishment of his birth record under section thirteen may petition the city or town clerk of the city or town where it is claimed the birth occurred, for the recording of such birth. If the evidence submitted by the petitioner is satisfactory to the city or town clerk as a basis for establishing such record, he shall accept the same and record the birth. If, however, in the opinion of the clerk such evidence is not satisfactory, the clerk shall present such petition and evidence to a judge of the probate court of the county in which such city or town is located for approval. Said judge may order the recording of such birth and may, on appeal, order acceptance of an affidavit under section thirteen which has been

rejected by the clerk. Upon receipt of such order from said judge, the clerk shall establish such record.

1945, 542.

**SECTION 14. Penalty for False Return.** Whoever wilfully makes a false return relative to a birth, marriage or death shall forfeit not more than fifty dollars.

1897, 444, § 15.

R. L. 29, § 15.

G. L. 46, § 14.

**SECTION 16. Blank Forms to be Furnished to Towns, etc.** The state secretary shall prepare and furnish to the clerks and boards of health of towns, and to the superintendent of the Tewksbury State Hospital record books, books for indexes thereto, forms for returns, on paper of uniform size, and any necessary instructions and explanations, including an explanation that sections one hundred and ten and one hundred and eleven of chapter one hundred and eleven require physicians, registered hospital medical officers, nurses, relatives or other attendants to report immediately to the local board of health every child one or both of whose eyes become inflamed, swollen and red and show an unnatural discharge within two weeks after birth. Town clerks shall distribute the blank forms as the state secretary shall direct. A town may provide such books and forms if they conform to those so prepared.

1842, 95, § 2.

1897, 444, § 18.

1920, 244, § 2.

1844, 159, §§ 6, 7.

1900, 333.

G. L. 46, § 16.

1849, 202, § 5.

R. L. 29, § 17.

1941, 351, § 4.

G. S. 21, § 9.

1911, 104.

P. S. 32, § 14.

1912, 470, § 1.

**SECTION 19. Clerk's Record to be Prima Facie Evidence.** The record of the town clerk's relative to a birth, marriage or death shall be prima facie evidence of the facts recorded, but nothing contained in the record of a death which has reference to the question of liability for causing the death shall be admissible in evidence. A certificate of such a record, signed by the town clerk or assistant clerk, or a certificate of the copy of the record relative to a birth, marriage or death required to be kept in the state secretary's office, signed by said state secretary or one of his deputies, shall be admissible as evidence of such record.

R. S. 75, § 25.

142 Mass. 466.

260 Mass. 77.

G. S. 21, § 6.

1943, 228, § 1.

285 Mass. 183.

P. S. 32, § 11.

1945, 570, § 1.

297 Mass. 34.

1897, 444, § 21.

163 Mass. 453.

303 Mass. 413, 457.

R. L. 29, § 20.

217 Mass. 451.

309 Mass. 213.

G. L. 46, § 19.

226 Mass. 67.

316 Mass. 362.

10 Allen, 161.

240 Mass. 450.

318 Mass. 663.

122 Mass. 43.

252 Mass. 328.

320 Mass. 123, 180.

133 Mass. 242.

253 Mass. 506.

**SECTION 29. Attestation of Copies under Seal.** Town clerks or registrars shall attest their copies of the record of births, marriages or deaths with the official seal of the town.

1898, 339, § 3.

R. L. 29, § 29.

G. L. 46, § 29.

(See page 24, insert in place of Section 19)

**SECTION 19. CLERK'S RECORD TO BE PRIMA FACIE EVIDENCE.** The record of the town clerk's relative to a birth, marriage, or death shall be prima facie evidence of the facts recorded, but nothing contained in the record of a death which has reference to the question of liability, for causing the death shall be admissible in evidence. A certificate of such a record, signed by the town clerk or assistant clerk, or a certificate of the copy of the record relative to a birth, marriage or death required to be kept in the state secretary's office, signed by said state secretary or one of his deputies, shall be admissible as evidence of such record. Upon request for an abbreviated record of

a birth, marriage or death, the clerk or assistant clerk shall make an abstract of the record of the same without notation thereon of the name of the parent or parents, except by request of the applicant.

R.S. 75, s 25	226 Mass. 67
G.S. 21, s 6	240 Mass. 450
P.S. 32, s 11	252 Mass. 328
1897, 444, s 21	253 Mass. 506
R.L. 29, s 20	260 Mass. 77
G.L. 46, s 19	285 Mass. 183
10 Allen, 161	297 Mass. 347
122 Mass. 43	308 Mass. 413, 457
133 Mass. 242	309 Mass. 213
142 Mass. 466	316 Mass. 362
1943, 228 s 1	318 Mass. 663
1945, 570, s 1	320 Mass. 123, 180
163 Mass. 453	1950, 336
217 Mass. 451	





(To be inserted after Section 46A, on page 25.)

Section 46B. If a child of school age, handicapped as described in sections forty-six and forty-six A or afflicted with cerebral palsy, attends a special school approved by the department within or without the city or town of residence of his parent or guardian, the school committee of the town where the child resides may provide transportation once each day to and from such school while the child is in attendance. The city or town pro-

viding transportation under this section shall be eligible for reimbursement upon determination by the department of amounts due in accordance with attested claims by the school committee on forms provided by the department and said reimbursements shall be paid out of proceeds of the tax on incomes.

1954, 296, s 1.





## CHAPTER 71. • PUBLIC SCHOOLS.

**SECT.**

1. Maintenance of public schools.
- 46A. Instruction of crippled children in their homes, etc.
53. School physicians.
- 53A. District may employ school physicians and nurses.
- 53B. Certain towns exempt.

**SECT.**

54. Physical examination of pupils, teachers and janitors.
55. Examination of certain pupils.
- 55A. Exclusion of certain sick children from school.
56. Parent or guardian to be notified of disease, etc.
57. Testing as to defective sight, feet, etc.

**SCHOOLHOUSES.**

72. Sale of lunches to pupils and teachers.

**SECTION 1. Maintenance of Public Schools.** Every town shall maintain for at least one hundred and sixty days in each school year unless specifically exempted as to any one year by the department of education, in this chapter called the department, a sufficient number of schools for the instruction of all children who may legally attend a public school therein. Such schools shall be taught by teachers of competent ability and good morals, and shall give instruction and training in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, the history and constitution of the United States, the duties of citizenship, physiology and hygiene, good behavior, indoor and outdoor games and athletic exercise. In connection with physiology and hygiene, instruction as to the effects of alcoholic drinks and of stimulants and narcotics on the human system, and as to tuberculosis and its prevention, shall be given to all pupils in all schools under public control, except schools maintained solely for instruction in particular branches. Such other subjects as the school committee considers expedient may be taught in the public schools.

C. L. 136; 305.	P. S. 44, § 1.	1923, 222, § 1.
1692-3, 26, § 5.	1884, 69.	G. L. 71, § 1.
1789, 19, § 1.	1885, 332.	10 Met. 503.
1823, 111.	1894, 231; 320, § 1.	196 Mass. 309.
1826, 143, § 1.	1893, 496, § 1.	251 Mass. 84.
R. S. 23, § 1.	1900, 218.	239 Mass. 334.
1839, 56, § 1.	R. L. 42, § 1.	297 Mass. 68.
1850, 229.	1903, 131.	308 Mass. 36.
1857, 206, § 1.	1910, 524.	311 Mass. 680.
1858, 5.	1911, 247.	1 Op. A. G. 576, 577.
1859, 263.	1917, 169.	5 Op. A. G. 573.
G. S. 38, § 1.	1918, 257, § 174.	7 Op. A. G. 347.
1862, 7.	1919, 5; 350, § 56.	1936 Op. A. G. 41.
1870, 248, § 1.	1920, 2.	
1876, 3, § 1.	1921, 360.	

**SECTION 46A. Instruction of Crippled Children in their homes, etc.** The school committee of every town shall annually ascertain under regulations prescribed by the department, after consultation with the commissioners of public health and public welfare, the number of children of school age and resident therein who are physically handicapped. In any town where there is a child of school age resident therein so physically handicapped as to make attendance at a public school not feasible, and who is not otherwise provided for, the school committee shall employ a teacher or teachers, on full or part time, who shall, with the approval in each case of the departments of education and public health, offer instruction to each such child in his home or at such place and under such conditions as the committee may arrange.

In any town where there is a child of school age resident therein physically able to attend school but whose hearing, vision or speech is impaired or who is otherwise physically handicapped to such an extent as to prevent normal educational growth and development, such child shall be given that type of training recommended by the state department of education.

If a town furnishing instruction under this section to a child confined in a hospital, sanatorium or similar institution located therein is not the legal residence of the parent or guardian of such child, the town where such parent or guardian has a legal residence shall pay tuition to the town furnishing such instruction. On or before the fifteenth day of July in each year the town furnishing such instruction shall submit to the department an itemized statement of the following items of actual cost of instruction to children confined in hospitals, sanatoria, and similar institutions located therein for the preceding school year; teachers, textbooks, supplies and general control. The department shall determine the reasonableness of such cost, and shall, on or before the first day of September following, either notify said town that the cost is approved, or shall send to the town its own determination of reasonable cost. Such cost as approved or determined shall be divided by the pupil days of instruction given, and the result shall constitute the daily tuition for each pupil to be paid by the town where the parent or guardian has a legal residence to the town furnishing such instruction.

1930, 368.	1945, 534.	1947, 384.
1932, 159.	1946, 357.	

**SECTION 53. School Physicians and Nurses.** The school committee shall appoint one or more school physicians and nurses, shall assign them to the public schools within its jurisdiction, shall provide them with all proper facilities for the performance of their duties and shall assign one or more physicians to the examination of children who apply for health certificates required by section eighty-seven of chapter one hundred and forty-nine, but in cities where the medical inspection hereinafter prescribed is substantially provided by the board of health, said board shall appoint and assign the school physicians and nurses. The department may exempt towns having a valuation of less than one million dollars from so much of this section as relates to school nurses.

1906, 502, § 1.	1921, 357.	7 Op. A. G. 593.
1910, 257, § 1.	254 Mass. 384.	1934 Op. A. G. 83.
G. L. 71, § 53.	311 Mass. 689.	

**SECTION 53A. District may employ School Physicians and Nurses.** A superintendency district formed and conducted under the provisions of section sixty, or a superintendency union formed and conducted under the provisions of sections sixty-one to sixty-four, inclusive, may employ one or more school physicians and may employ one or more school nurses; determine the relative amount of



service to be rendered by each in each town; fix the compensation of each person so employed; apportion the payment thereof among the several towns; and certify the respective shares to the several town treasurers. A school physician or nurse so employed may be removed by a two thirds vote of the full membership of the joint committee.

G. L. 71, § 58A. 1921, 357, § 2. 286 Mass. 24.

**SECTION 53B. Certain Towns exempt.** The towns comprised in a superintendency district or union employing, to the satisfaction of the department, one or more school physicians and nurses in accordance with the provisions of section fifty-three A shall be exempt from the provisions of section fifty-three requiring the appointment of such persons.

G. L. 71, § 58B. 1921, 357, § 2. 286 Mass. 24.

**SECTION 54. Physical Examination of Pupils, Teachers and Janitors.** Every school physician shall make a prompt examination of all children referred to him as provided in this chapter, and such further examination of teachers, janitors and school buildings as in his opinion the protection of the health of the pupils may require. Every such physician who is assigned to perform the duty of examining children who apply for health certificates shall make a prompt examination of every child who wishes to obtain an employment permit, as provided in section eighty-seven of chapter one hundred and forty-nine, and who presents to said physician the pledge or promise of the employer, as provided in said section; and the physician shall certify in writing whether or not in his opinion such child is in sufficiently sound health and physically able to perform the work described in said pledge or promise.

1906, 502, § 2. 254 Mass. 384. 1933, 265, § 1.  
1910, 257, § 2. 311 Mass. 688. 1945, 133, § 2.  
G. L. 11, § 54. Op. A. G. 1931.

**SECTION 55. Examination of Certain Pupils.** A child infected, or in a household where a person is infected, with a disease dangerous to the public health as defined in accordance with section six of chapter one hundred and eleven, or in a household exposed to contagion from any such disease in another household, shall not attend any public school while he is so infected or remains in a household where such infection or exposure exists. A child returning to school after having been absent on account of such infection or exposure shall present a certificate from the board of health or its duly appointed agent that the danger of conveying such disease by such child has passed; provided, that if such a child returns to school without such a certificate, after having been absent on account of such infection or exposure, he shall immediately be referred to a school physician for examination and, if it is found by such physician upon such examination that such danger has passed, he may remain at school.

1906, 502, § 3. 254 Mass. 384. 1938, 265, § 2.  
G. L. 71, § 55. 311 Mass. 689.  
1922, 120. Op. A. G. 1931.

**SECTION 55A. Exclusion of certain sick children from school.** A child showing signs of ill health or of being infected with a disease dangerous to the public health as defined in accordance with section six of chapter one hundred and eleven shall be sent home immediately, or as soon as safe and proper conveyance can be found, or shall be referred to a school physician, who may direct that such child be sent home. In the case of schools remotely situated, such other steps may be taken as will best effectuate the purpose of this section and ensure the safety of such child and of other pupils. The superintendent of schools shall immediately cause the board of health to be notified of all children excluded under this section by reason of any disease dangerous to the public health. *See 26A*

1938, 265, § 3.

**SECTION 56. Parent or Guardian to be notified of Disease, etc.** If any child is found to be suffering from any disease or defect, or if any child is found to have any defect or disability requiring treatment, the school committee shall forthwith notify the parent or guardian of such child.

1906, 502, §§ 4, 5. 1938, 265, § 4. 8 Op. A. G. 310.  
G. L. 71, § 56.

*Superseded*

**SECTION 57. Testing as to Defective Sight, Feet, etc.** The committee shall cause every child in the public schools to be separately and carefully tested and examined at least once in every school year to ascertain defects in sight or hearing, and other physical defects tending to prevent his receiving the full benefit of his school work, or requiring a modification of the same in order to prevent injury to the child or to secure the best educational results, and to ascertain defects of the feet which might unfavorably influence the child's health or physical efficiency, or both, during childhood, adolescence and adult years, and shall require a physical record of each child to be kept in such form as the department may prescribe. The tests of sight and hearing shall be made by the teachers, directions for which shall be prescribed by the department of public health, and the examinations of feet shall be made by the school physicians.

1906, 502, §§ 5, 6. G. L. 71, § 57. 1943, 384.  
1919, 350, § 96. 8 A. G. 310. 311 Mass. 689.

## SCHOOLHOUSES.

**SECTION 72. Sale of Lunches to Pupils and Teachers.** The school committee may prepare and sell lunches at one or more school buildings for the pupils and teachers of the public schools at such prices as it deems reasonable.

1913, 575, § 1. G. L. 71, § 72. 1937 Op. A. G. 142.  
1919, 292, §§ 10, 21.

PUBLIC SCHOOLS

(See page 26 - Insert in place of Section 55)

SECTION 55. EXCLUSION OF CERTAIN PUPILS FROM PUBLIC SCHOOLS IF THE REGULATIONS OF THE BOARD OF HEALTH SO REQUIRE. A child infected, or in a household where a person is infected, with a disease dangerous to the public health as defined in accordance with section six of chapter one hundred and eleven, or in a household exposed to contagion from any such disease in another household, shall not attend any public school while he is so infected or remains in a household where such infection or exposure exists if the regulations of the board of health require such exclusion. A child returning to

school after having been absent on account of such infection or exposure shall present a certificate from the board of health or its duly appointed agent that the danger of conveying such disease by such child has passed; provided, that if such a child returns to school without such a certificate, after having been absent on account of such infection or exposure, he shall immediately be referred to a school physician for examination and, if it is found by such physician upon such examination that such danger has passed, he may remain at school

1906, 502, s 3.

G. L. 71, s 55.

1922, 120.

254 Mass. 384

311 Mass. 609

Op. A. G. 1931

~~19~~38, 265, s 2.

1952, 89, s 2.





(See page 26, insert after Section 55A)

**SECTION 55B. PROHIBITING EMPLOYMENT OF CERTAIN PERSONS.** No person known to be suffering from tuberculosis in a communicable form, or having evidence or symptoms thereof, shall be employed or continued in employment at any school in the commonwealth, including any college or university, in any capacity which might bring him into direct contact with any student at such school. Immediately prior to his entering into any such employment, and at least every three years during the course of his employment thereafter, each school superintendent, principal, director, teacher, food handler, janitor, school bus driver, nurse, doctor or other person whose duties bring him into such direct contact, shall file with the superintendent or other person having charge of such school, on forms furnished by the department of public health and approved by the department of education, a report, made by a registered physician, relative to his freedom from tuberculosis in a communicable form, and such report shall be kept as a part of the records of such school authorities. Such report shall be accompanied by an X-ray of such person's chest taken not more than ninety days prior thereto, and upon such laboratory tests and clinical examination as may be essential to a diagnosis of tuberculosis in a communicable form. All X-ray films shall be submitted for review to the department of public health or to the county or municipal tuberculosis sanatorium of the district or municipality in which such school is located, and where the X-ray so submitted is for any reason not satisfactory, an X-ray of the employee's chest shall be made by said department or such sanatorium. When such X-ray shows a pulmonary lesion which cannot be properly evaluated on a single film, further X-ray examinations shall

be made, at such intervals as it may require, and without charge, by said department or such sanatorium. Cases in which the question of communicability of tuberculosis arises may on appeal be referred to a board of three competent physicians, appointed by the commissioner of public health, and their decision shall be final. Such reports and X-rays shall be required at least every three years from all school employees other than substitute teachers or employees who do not work more than thirty calendar days in any school year; provided, that such re-examination shall not be required within three years of any previous examination for any school employee who may transfer within the commonwealth. Any teacher or other employee excluded or removed from employment on account of tuberculosis in a communicable form shall be carried on sick leave for such period as he may be entitled to under the regulations of the school committee or other school officers, and shall not return to employment in a school until properly certified by the department of public health, or such county or municipal sanatorium, on the basis of X-ray and laboratory examinations, as free from tuberculosis in a communicable form. Facilities for free X-ray service shall be provided by state, county and municipal sanatoria for all persons who come within the scope of this act.

1950, 732 s 1

On or before July first, nineteen hundred and fifty-one, all persons coming within the purview of section fifty-five B of chapter seventy-one of the General Laws, as inserted by section one of this act shall file with the school authorities a report and X-ray as prescribed in said section fifty-five B.

1950, 732 s 2



(Insert in place of page 26A now in Manual, at the end of Chapter 71)

### NATIONAL SCHOOL LUNCH ACT

#### SECTION 1. STATE EDUCATIONAL AGENCY.

The Board of Education is hereby designated as the "State Educational Agency" to represent the commonwealth in dealing with the secretary of agriculture of the United States in carrying out the provisions of the National School Lunch Act as enacted into law on June fourth, nineteen hundred and forty-six.

1948, 548 s 1

**SECTION 2. EXPENDITURE OF FUNDS.** Pursuant to any power of school committees to operate or provide for the operation of school lunch programs in schools under their jurisdiction, a school committee of any town may establish, maintain, operate and expand a school lunch program for the pupils in any school building under the jurisdiction of said committee, may make all contracts necessary to provide material, personnel and equipment needed to carry out the provisions of this act; and if necessary may expend funds to meet the matching requirements of any other provisions of said National School Lunch Act.

1948, 548 s 1

1949, 303 s 2

**SECTION 3. USE OF FUNDS.** School committees may use therefor funds disbursed to them under the provisions of this act, gifts and other funds received from sale of school lunches under such programs. Such contributions received in the form of money, together with fees from sale of lunches and any allotments received from the state under provisions of this act for said purposes, shall be deposited with the treasurer of such town and held as a separate account and expended by said school committee without appropriation, notwithstanding the provisions of section fifty-three of chapter forty-four of the

General Laws. Nothing in this act shall prevent cities or towns from appropriating funds in addition to those provided from other sources

1950, 417

**SECTION 4. KEEPING OF ACCOUNTS.** The office of school lunch programs, with the approval of the commissioner, shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school committees. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five years, as the division may lawfully prescribe. The division shall conduct or cause to be conducted such audits, inspections and administrative reviews of accounts, records and operations with respect to school lunch programs as may be necessary to determine whether its agreements with school committees or other sponsors of school lunch programs and other regulations made pursuant to this act are being complied with, and to insure that school lunch programs are effectively administered.

1950, 417

**SECTION 5. IMPROVING AND EXPANDING SCHOOL LUNCH PROGRAMS.** The office of school lunch programs is hereby authorized to the extent that funds are available for that purpose, and in cooperation with other appropriate agencies and organizations, to conduct studies as to the methods of improving and expanding school lunch programs and promoting nutritional education in the schools, to conduct appraisals of the nutritive benefits of school lunch programs, and to report its findings and recommendations from time to time to the commissioner of education.

1950, 417

# PUBLIC SCHOOLS

**SECTION 57. TESTING AS TO DEFECTIVE SIGHT, FEET, ETC.** The committee, or the board of health in those municipalities where school health services are the responsibility of the board of health, shall cause every child in the public schools to be separately and carefully examined in such manner and at such intervals, including original entry, as may be determined by the department of public health after consultation with the department of education and the medical profession, to ascertain defects in sight or hearing, and other physical defects tending to prevent his receiving the full benefit of his school work, or requiring a modification of the same in order to prevent injury to the child or to secure the best educational results, and to ascertain defects of the feet which might unfavorably influence the child's health or physical efficiency, or both, during childhood, adolescence and adult years, and

shall require a physical record of each child to be kept in such forms as prescribed by the provisions of chapter eleven, section one hundred and eighty-five A. Tests of sight and hearing shall be performed by teachers, physicians, optometrists, nurses or other school personnel who are approved by the department of public health for this purpose and in accordance with regulations setup by the department, and the examination of feet shall be made by the school physicians. Any child shall be exempt on religious grounds from these examinations upon written request of parent or guardian on condition that the laws and regulations relating to communicable diseases shall not be violated.

This act shall take effect on September first, nineteen hundred and fifty-two.

1906, 502 ss 5,6

1919, 350 s 96

G.L. 71 s 57

8 A.G. 310

1943, 384

311 Mass. 689

1951, 502 ss 1,2





(To be inserted after Section 55A on page 26)

Section 55B. No person known to be suffering from tuberculosis in a communicable form, or having evidence or symptoms thereof, shall be employed or continued in employment at any school in the commonwealth, including any college or university, in any capacity which might bring him into direct contact with any student at such school. Immediately prior to his entering into any such employment, and at least every three years during the course of his employment thereafter, each school superintendent, principal, director, teacher, food handler, janitor, school bus driver, nurse, doctor or other person whose duties bring him into such direct contact, shall file with the superintendent or other person having charge of such school, on forms furnished by the department of public health and approved by the department of education, a report, made by a registered physician, relative to his freedom from tuberculosis in a communicable form, and such report shall be kept as a part of the records of such school authorities. Such report shall be accompanied by an X-ray of such person's chest taken not more than ninety days prior thereto, and upon such laboratory tests and clinical examination as may be essential to a diagnosis of tuberculosis in a communicable form. All X-ray films shall be submitted for review to the department of public health or to the county or municipal tuberculosis sanatorium of the district or municipality in which such school is located, and where the X-ray so submitted is for any reason not satisfactory, an X-ray of the employee's chest shall be made by said department or such sanatorium. When such X-ray shows a pulmonary lesion which cannot be properly evaluated on a single film, further X-ray examinations shall be made, at such intervals as it may require, and without charge, by said department or such sanatorium. Cases in which the

question of communicability of tuberculosis arises may on appeal be referred to a board of three competent physicians, appointed by the commissioner of public health, and their decision shall be final. Such reports and X-rays shall be required at least every three years from all school employees other than substitute teachers or employees who do not work more than thirty calendar days in any school year; provided, that such re-examination shall not be required within three years of any previous examination for any school employees who may transfer within the commonwealth. Any teacher, other than a teacher in the public schools, or any other employee excluded or removed from employment on account of tuberculosis in a communicable form shall be carried on sick leave with pay for such period as he may be entitled to under the regulations of the school committee or other school officers; and any teacher in a public school, or other employee therein whose duties bring him into direct contact with any student thereat, shall, if excluded or removed from employment on account of tuberculosis in a communicable form be carried on sick leave with pay for the entire period of such exclusion or removal, but in no case for more than two years, and for such further additional period as he may be entitled to under the regulations of the school committee or other school officers. No teacher or employee so excluded or removed shall return to employment in a school until properly certified by the department of public health, or such county or municipal sanatorium, on the basis of X-ray and laboratory examinations, as free from tuberculosis in a communicable form. Facilities for free X-ray service shall be provided by state, county and municipal sanatoria for all persons who come within the scope of this act.





## PUBLIC SCHOOLS

(See page 26, at the end of Chapter 71)

## NATIONAL SCHOOL LUNCH ACT

SECTION 1. STATE EDUCATIONAL AGENCY. The board of education is hereby designated as the "State Educational Agency" to represent the commonwealth in dealing with the secretary of agriculture of the United States in carrying out the provisions of the National School Lunch Act as enacted into law on June fourth, nineteen hundred and forty-six.

1948, 548§1

SECTION 2. EXPENDITURE OF FUNDS. Pursuant to any power of school committees to operate or provide for the operation of school lunch programs in schools under their jurisdiction, a school committee of any town may establish, maintain, operate and expand a school lunch program for the pupils in any school building under the jurisdiction of said committee, may make all contracts necessary to provide material, personnel and equipment needed to carry out the provisions of this act; and if necessary may expend funds to meet the matching requirements and any other provisions of said National School Lunch Act.

1948, 548§1

1949, 303§2





## CHAPTER 76.

## SCHOOL ATTENDANCE.

**SECTION 15. Vaccination.** An unvaccinated child shall not be admitted to a public school except upon presentation of a physician's certificate like the physician's certificate referred to in section one hundred and eighty-three of chapter one hundred and eleven.

1855, 414, § 2.	1898, 496, § 11.	195 Mass. 29.
G. S. 41, § 8.	R. L. 44, § 6.	7 Op. A. G. 370, 374,
P. S. 47, § 9.	1906, 371.	375.
1884, 64.	1907, 215.	1938 265, § 5.
1885, 198.	1918, 117.	
1894, 498, §§ 9, 10.	G. L. 76, § 15.	

R. L. 75, § 137, held constitutional, and reason for it discussed in *Commonwealth v. Pear*, *Commonwealth v. Jacobson* and *Commonwealth v. Mugford*, 183 Mass. 242, 249. Held not in derogation of any of the rights of persons under the fourteenth amendment of the Constitution of the United States. *Jacobson v. Massachusetts*, 197 U. S. 11. The fact that children under certain circumstances are excepted from the operation of the law does not deny the equal protection of the laws to adults. *Ibid.*

R. L. 44, § 6 (as amended by 1906, 371, and by 1907, 215), does not give an unvaccinated child presenting a certificate that he is not a fit subject for vaccination an absolute right to attend school at all times. A regulation made during a time when smallpox was prevalent "to exclude from attendance all unvaccinated children and also all children who do

not present a certificate of revaccination as required by the board of health, until such time as this [school] committee may become satisfied that the imminent danger from contagion of smallpox in our town has ceased," is a reasonable one. *Hammond v. Hyde Park*, 195, Mass. 29.

The exemption under G. L., c. 76, § 15, and c. 111, § 183, upon the presentation of the certificate therein described, of a child of school age from vaccination before being admitted to the public schools does not cover the entire period of the child's attendance after the filing of the certificate the certificate is limited to the period during which his physical condition is such that in the opinion of the certifying physician he is an unfit subject for vaccination. *Spofford v. Carleton*, 238 Mass. 528.

It has been further held that a regulation of the school committee requiring a renewal of such a certificate every two months, but providing that a pupil failing to renew such certificate should not be excluded from school until a period of two weeks had elapsed after failure to renew, conformed with the law and was valid. *Spofford v. Carleton*, 238 Mass. 528.

See also for exclusion from school, *Carr v. Dighton*, 229 Mass. 304.

## CHAPTER 83.

## SEWERS, DRAINS, AND SIDEWALKS.

## CONSTRUCTION AND MAINTENANCE OF SEWERS AND DRAINS.

## SECT.

1. Laying out of sewers.
2. Plans and records.
3. Sewer connections.
4. Drains for highways.

## SEPARATION, PURIFICATION AND DISPOSAL OF SEWAGE.

5. Separate system of plumbing.
6. Establishment of sewage disposal works.
7. Prevention of nuisance from works.

## REGULATIONS AND PENALTIES.

8. Digging up public ways.
9. Obstruction of ditches.
10. Obstruction of sewers.
11. Requirement of connection with sewer.
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## SEWER ASSESSMENTS.

14. Assessment for construction.
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16. Assessment for use of sewers.
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21. Land abutting upon more than one way.
22. Sewers built by land owners.
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24. Assessment for particular sewers.
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## CONSTRUCTION AND MAINTENANCE OF SEWERS AND DRAINS.

**SECTION 1. Laying out of Sewers.** The aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may lay out all such

main drains or common sewers as they adjudge necessary for the public convenience or the public health, in public or private ways or in the land of any person, and may take land by eminent domain under chapter seventy-nine which may be necessary therefor, and may prescribe the manner in which and the materials with which such drains or sewers shall be built; but all such drains or sewers built in public ways shall be built and repaired with brick or stone or in some other substantial manner. They may also lay out particular sewers from common sewers to the boundary of the way. Drains and sewers so laid out shall be built, repaired, maintained and owned by the town.

1709-10, 5, § 2.	4 Allen, 41.	146 Mass. 298, 336,
1796, 47, § 2.	8 Allen, 127.	467.
R. S. 27, § 2.	13 Allen, 146.	149 Mass. 44, 410.
1841, 116, §§ 1, 6.	104 Mass. 18.	150 Mass. 12.
1857, 225, § 1.	110 Mass. 483.	151 Mass. 174.
G. S. 48, §§ 1, 3, 9	113 Mass. 218.	159 Mass. 324.
1869, 111, § 1.	114 Mass. 483.	160 Mass. 282.
1871, 158, § 2.	119 Mass. 294.	163 Mass. 303.
1878, 51.	122 Mass. 255.	174 Mass. 545.
P. S. 50, §§ 1, 13.	124 Mass. 564.	185 Mass. 142.
1890, 124.	126 Mass. 431.	192 Mass. 287.
1892, 245, § 4.	128 Mass. 396.	201 Mass. 329.
1893, 304, § 2; 423,	131 Mass. 523.	229 Mass. 403.
§ 24.	134 Mass. 476.	278 Mass. 94.
R. L. 49, §§ 1, 12, 25.	139 Mass. 384.	288 Mass. 190.
G. L. 88, § 1.	142 Mass. 110.	800 Mass. 568.



**SECTION 2. Plans and Records.** Plans and descriptions of all main drains and common sewers belonging to a town, with a true record of the charges of making and repairing said drains and sewers and of all assessments therefor, shall be kept in the office of the town clerk or in such other office of the town as the town by ordinance or by-law may determine.

1878, 232, § 2.  
P. S. 50, § 14.

R. L. 49, § 24.  
1907, 365.

G. L. 83, § 2.

**SECTION 3. Sewer Connections.** The board or officers of a city or town having charge of the repair and maintenance of sewers may, upon request of the owner of land and payment by him of the actual cost thereof, construct a particular sewer from the street line to a house or building. A town may appropriate money for connecting estates within its limits with common sewers, and no estate shall, in any year in which such an appropriation is made, be connected with a common sewer except in the manner hereinafter provided. If bonds or notes are issued to pay the cost of making such connections, the assessments provided for in section twenty-four shall be applied to the payment of such bonds or notes. If the board of health of a town making such appropriation shall order land abutting upon a public or private way in which a common sewer has been laid to be connected with such sewer, or if the owner of such land shall make to the board or officer having charge of the maintenance and repair of sewers application to connect his land with a common sewer, such board or officer shall make such connection.

1892, 245, § 4.  
1899, 319, §§ 1, 2.

1900, 112.  
R. L. 49, §§ 12, 81, 82.

G. L. 83, § 3.  
309 Mass. 180.

**SECTION 4. Drains for highways.** The department of public works, county commissioners, and the officers having charge of highways in any city or town may construct ditches or drains for the purpose of properly draining any highway, and may carry water away from any highway and over or through any land as they may deem necessary for public convenience or for the proper care or construction of such highway, and may purchase or take by eminent domain under chapter seventy-nine, on behalf of the commonwealth, county, city or town, such land or interest therein as may be necessary therefor. Such ditches and drains shall be under the control of said officials, who may enter upon any land for the purpose of constructing, repairing or maintaining the same; but they shall not enter upon or construct any ditches, drains or other works or lay any conduits or pipes or discharge any water within the location of any railroad corporation, except at such time and in such manner as they may agree upon with such corporation, or, in case of failure so to agree, as may be approved by the department of public utilities. The owner or occupant of land through which any ditch or drain has been constructed under this section may, after securing a permit from the officers having control of the ditch or drain, construct and maintain a bridge over the same. The damages sustained by any person in his property by takings or other acts herein authorized may be recovered under chapter seventy-nine. The depart-

ment, board or officers who have taken an easement under this section may discontinue or abandon the same by filing for record in the registry of deeds a suitable instrument.

1917, 329, §§ 1, 3.  
1919, 350, §§ 111, 113.

G. L. 83, § 4.  
1931, 394, § 39.

290 Mass. 372.

#### SEPARATION, PURIFICATION AND DISPOSAL OF SEWAGE.

**SECTION 5. Separate System of Plumbing.** In this section surface or storm water and such other waters as shall be specified by the department of public health shall be designated as waters and all other waters and sewage shall be designated as sewage. When a town has provided both a drain for waters and a sewer for sewage in a public way, the owner of every parcel of land abutting on such way or connected with such drain or sewer shall arrange his plumbing so that the waters shall be kept separate from the sewage; and shall make such connections with the drain and sewer respectively that the waters shall pass into the drain and the sewage into the sewer in accordance with the directions of the board or officer having charge of the repair and maintenance of sewers in such town.

1903, 383, § 1.

G. L. 83, § 5.

286 Mass. 413.

**SECTION 6. Establishment of Sewage Disposal Works.** A town, with the approval of the department of public health, after a public hearing by said department of all parties interested, of which notice shall be given by publication in one or more newspapers, may purchase land within its limits, or take the same by eminent domain under chapter seventy-nine, for the treatment, purification and disposal of sewage. Towns or persons owning or operating filter beds or other works for the treatment, purification and disposal of sewage shall provide and maintain works adequate for the treatment of the sewage at all times, and shall operate such works in such manner as will prevent a nuisance therefrom or the discharge or escape of unpurified or imperfectly purified sewage or effluent into any stream, pond or other water, or other objectionable result.

1890, 124.

R. L. 49, § 1.  
1909, 433, § 1.  
G. L. 83, § 6.

134 Mass. 476.

150 Mass. 12.  
163 Mass. 303.  
Op. A. G. 1938.

278 Mass. 99.

288 Mass. 186, 193.

The city is not responsible for any defect or want of efficiency in the plan of drainage adopted, but after a sewer is built the city is liable for negligence in the manner of maintaining it and for failure to maintain its free discharge as originally planned, at the suit of one who is compelled to enter the sewer (*Child v. Boston*, 4 Allen, 41), but not at the suit of one who is not connected (*Barry v. Lowell*, 8 Allen, 127). The city is liable for negligence in the construction or maintenance of a drain which causes injury (*Emery v. Lowell*, 104 Mass. 13; *Hill v. Boston*, 122 Mass. 359; *Murphy v. Lowell*, 124 Mass. 564; 128 Mass. 396; *Bates v. Westborough*, 151 Mass. 174; *Allen v. Boston*, 159 Mass. 324), but not for damages resulting from work done under illegal and void votes (*Lemon v. Newton*, 134 Mass. 476).

If a common drain runs through private lands, the



power and duty of the town to repair it are the same as if it were in a highway. *Melrose v. Hiland*, 163 Mass. 303.

A city ordinance prohibiting any one from connecting with a public sewer without a permit from the aldermen is valid, and a person who violates it cannot recover for the negligence of the city in maintaining the sewer. *Ranlet v. Lowell*, 126 Mass. 431.

The mayor and aldermen may order the sewer to be "built" by a joint committee of the city council. Notice of the proposed sewer need not be given to a person who is to be benefited thereby. *Collins v. Holyoke*, 146 Mass. 298.

For a discussion of the character of "main drains or common sewers," see *Smith v. City of Gloucester*, 201 Mass. 329.

**SECTION 7. Prevention of Nuisance from Works.** If the department of public health determines upon examination that a filter bed or other works for the treatment, purification and disposal of sewage causes the pollution of a stream, pond or other water, or is likely to become a source of nuisance or create objectionable results in its neighborhood by reason of defective construction, inadequate capacity or negligence or inefficiency in maintenance or operation or from other cause, it may issue notice in writing to the town or person owning or operating such works requiring such enlargement or improvement in the works or change in the method of operation thereof as may be necessary for the proper maintenance and operation of the works and the efficient purification and disposal of the sewage. If said department determines after investigation that the unsatisfactory operation of a sewage disposal system is due wholly or partly to the discharge into the system of manufacturing waste or other substance of such character as to interfere with the efficient operation of said works, it may if necessary prohibit the entrance of such waste or other material, or may regulate the entrance thereof into the system, or may require the treatment of such waste or other material in such manner as may be necessary to prevent its interference with the operation of the works.

1909, 433, § 3.

1919, 350, § 97.

G. L. 83, § 7.

#### REGULATIONS AND PENALTIES.

**SECTION 8. Digging up Public Ways.** Whoever digs or breaks up the ground in a public way for the laying, altering or repairing of a drain or sewer, without the written consent of the board or officer having charge of the maintenance and repair of sewers in the town in which such way is situated, shall forfeit five dollars, to the use of such town.

1709-10, 5, § 1.  
1796, 47, § 1.  
R. S. 27, § 1.G. S. 48, § 8.  
P. S. 50, § 12.  
R. L. 49, § 29.

G. L. 83, § 8.

**SECTION 9. Obstruction of Ditches.** Whoever, by himself, his agents or servants, deposits in or along any ditch or drain constructed under section four any material which will obstruct the flow of water therein shall be punished by a fine of ten dollars, and shall be liable in tort to the commonwealth, the

county, city or town controlling the ditch or drain for all damages caused thereby, for the cost and expense of removing the obstructing material and of restoring the ditch or drain to its former condition.

1917, 329, § 4.

G. L. 83, § 9.

**SECTION 10. Obstruction of Sewers.** The aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may make necessary regulations regarding the use of common sewers to prevent the entrance or discharge therein of any substance which may tend to interfere with the flow of sewage or the proper operation of the sewerage system or disposal works, and may make regulations for the construction and use of particular sewers, and impose penalties not exceeding twenty dollars for their violation.

1892, 245, § 4.  
R. L. 49, § 12.1909, 433, § 2.  
G. L. 83, § 10.5 Op. A. G. 562.  
286 Mass. 191.

**SECTION 11. Requirement of Connection with Sewer.** The board of health of a town may require the owner or occupant of any building upon land abutting on a public or private way, in which there is a common sewer, to connect the same therewith by a sufficient drain, and such owner or occupant who fails to comply with such order shall be punished by a fine of not more than two hundred dollars.

1890, 132.  
R. L. 49, § 30.

G. L. 83, § 11.

160 Mass. 282.

A householder must connect with the sewer even if another part of the sewer has been built unlawfully on the land of the householder. *Commonwealth v. Abbott*, 160 Mass. 282.

**SECTION 12. Repair of Private Drain.** If a city council or a town accepts this section or has accepted corresponding provisions of earlier laws, the board of health may require the owner or occupant of an estate which drains into a private drain in a public or private way to put such drain in good repair and condition. If he fails to comply with said order within ten days after notice thereof, he shall be punished by a fine of not more than twenty dollars for every day during which such failure continues.

1893, 312.

R. L. 49, § 35.

G. L. 83, § 12.

**SECTION 13. Enforcement by Equity Jurisdiction.** The supreme judicial court and the superior court shall have jurisdiction in equity to restrain the unlawful use of common sewers or the placing or depositing of materials therein or the violation of regulations regarding the use thereof made under section ten, and to enforce the provisions of sections five to seven, inclusive.

1897, 116, § 2.  
R. L. 49, § 86.  
1903, 883, § 4.1909, 433, § 4.  
G. L. 83, § 13.  
See Sec. 10.5 Op. A. G. 562.  
286 Mass. 192.

#### SEWER ASSESSMENTS.

**SECTION 14. Assessment for Construction.** A person who enters his particular drain into a main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall pay to the town a proportional part of the charge of making and repairing the same, and of the charge, not already assessed, of making and repairing other main drains and common sewers



through which the same discharges, which shall be ascertained, assessed and certified by the aldermen, sewer commissioners, selectmen or road commissioners.

1841, 115, § 2.	111 Mass. 123.	143 Mass. 585.
G. S. 48, § 4.	112 Mass. 541.	146 Mass. 298.
1878, 232, § 1.	117 Mass. 363.	150 Mass. 12.
P. S. 50, § 4.	118 Mass. 168.	192 Mass. 287.
1893, 423, §§ 23, 24.	120 Mass. 108, 297.	201 Mass. 329.
R. L. 49, § 3.	128 Mass. 282.	217 Mass. 422.
G. L. 83, § 14.	182 Mass. 42.	229 Mass. 403.
9 Cush. 233.	136 Mass. 188.	300 Mass. 562.
99 Mass. 627.	139 Mass. 328, 384.	

**SECTION 15. Assessment for Sewerage Systems.** The city council of a city or a town may adopt a system of sewerage for a part or the whole of its territory, and may provide that assessments under section fourteen shall be made upon owners of land within such territory by a fixed uniform rate, based upon the estimated average cost of all the sewers therein, according to the frontage of such land on any way in which a sewer is constructed, or according to the area of such land within a fixed depth from such way, or according to both such frontage and area; but no assessment in respect to any such land, which by reason of its grade or level or any other cause cannot be drained into such sewer, shall be made until such incapacity is removed. If the assessment is according to the area within such fixed depth, the lien therefor shall attach to the parcel assessed.

1878, 232, § 5.	110 Mass. 433.	188 Mass. 81.
1879, 55.	136 Mass. 179.	192 Mass. 287.
P. S. 50, § 7.	139 Mass. 384.	210 Mass. 151.
1894, 528.	150 Mass. 12.	217 Mass. 422.
R. L. 49, § 5.	163 Mass. 23.	300 Mass. 562.
G. L. 83, § 15.	172 Mass. 28.	308 Mass. 136.
7 Cush. 277.	176 Mass. 247.	

**SECTION 16. Assessment for Use of Sewers.** The aldermen of any city except Boston or the sewer commissioners, selectmen or road commissioners of a town, may from time to time establish just and equitable annual charges for the use of common sewers, which shall be paid by every person who enters his particular sewer therein. The money so received may be applied to the payment of the cost of maintenance and repairs of such sewers or of any debt contracted for sewer purposes.

1892, 245, § 1.	G. L. 83, § 16.	175 Mass. 242.
R. L. 49, § 6.		

**SECTION 17. Payment for Permanent Privilege.** The aldermen of any city except Boston or a town in which main drains or common sewers are laid may determine that a person who uses such main drains or common sewers in any manner, instead of paying an assessment under section fourteen, shall pay for the permanent privilege of his estate such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners shall determine.

1878, 184, §§ 1, 2.	1918, 257, § 212.	G. L. 83, § 17.
P. S. 50, §§ 8, 9.	1919, 5.	192 Mass. 287.
R. L. 49, § 7.	1920, 2.	

**SECTION 18. Determination of Method of Assessment.** The city council of a city or a town which itself is, or the officers of which are, entitled, under sections fourteen to seventeen, inclusive, or under any special act, to assess upon land the whole or a part of the cost of laying, making, maintaining or repairing main drains or common sewers, may de-

termine that such assessments shall be made by two or more of the methods provided in said sections or special acts, and may determine what part of the expense or estimated average cost shall be paid under each method.

1892, 245, §§ 2.	R. L. 49, § 8.	G. L. 83, § 18.
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**SECTION 19. Extension of Time of Payment.** The aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may extend the time for the payment of such assessments upon land which is not built upon until it is built upon or for a fixed time; but interest at the rate of four per cent per annum shall be paid annually upon the assessment from the time it was made, and the assessment shall be paid within three months after such land is built upon or at the expiration of such fixed time.

1892, 245, § 3.	1915, 5.	1943, 252, § 4.
R. L. 49, § 9.	1920, 2.	210 Mass. 151.
1918, 276, § 213.	G. L. 83, § 19.	

**SECTION 20. Fee for Use of Sewers.** The owners of land or parts thereof not liable to assessment, or not in fact assessed, may use the common sewers for the disposal of their sewage from such land only on payment of such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners shall determine.

1892, 245, § 3.	R. L. 49, § 10.	G. L. 83, § 20.
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**SECTION 21. Land Abutting upon More than One Way.** If land abuts upon more than one way, assessments for sewers based wholly or in part upon frontage shall be assessed upon the frontage upon one such way and upon so much of the frontage upon such other way as is not exempted by the board whose duty it is to make the assessment; and such board may exempt from assessment so much of the frontage upon such other way as they consider just and equitable.

1892, 245, § 5.	R. L. 49, § 11.	G. L. 83, § 21.
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**SECTION 22. Sewers Built by Land Owners.** If any ordinance or by-law provides that any drain or sewer laid in any land or way, public or private, which is opened or proposed to be opened for public travel and accommodation shall be a main drain or common sewer, and such drain or sewer is laid in a private way or land at the expense of the owner thereof, his land shall not be assessed for such drain or sewer, except for the cost of connecting it with common drains or sewers already established.

1895, 227.	R. L. 49, § 13.	G. L. 83, § 22.
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**SECTION 23. Payment of Part of Cost by City or Town.** This chapter shall not prevent a town from providing, by ordinance or otherwise, that a part of the expense of laying out, constructing, maintaining and repairing main drains or common sewers shall be paid by such town; and any city except Boston and any town adopting a system of sewerage which had not, prior to May sixth, eighteen hundred and ninety-two, actually levied assessments for the cost of such system shall pay such portion, not less than one quarter nor more than two thirds, of the cost of laying out, constructing, maintaining and



repairing the common sewers as the city council or the sewer commissioners, selectmen or road commissioners may determine.

1841, 115, § 5.  
G. S. 48, § 7.

P. S. 50, § 11.  
1892, 245, § 9.

R. L. 49, §§ 26, 27.  
G. L. 83, § 23.

**SECTION 24. Assessment for Particular Sewers.** The owner of any land benefited by the laying out of a particular sewer from the common sewer to the boundary of the way shall pay to the town for the permanent privilege of using the same such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners determine, which may be fixed at the estimated average cost of all such particular sewers within the territory for which a system of sewers has been built or adopted. The board or officers authorized to lay out sewers shall assess the cost of connecting private land with a common sewer under section three upon the land

so connected, and may require that an applicant for a connection of his land with a sewer shall pay in advance an amount equal to the estimated assessment therefor, which shall be applied to the payment of the assessment, and the remainder, if any, shall be repaid to the applicant.

1892, 245, § 4.  
1899, 319, §§ 2, 5.

1900, 112.  
R. L. 49, §§ 12, 32, 34.

234 Mass. 108.  
G. L. 83, § 24.

**SECTION 29. Liens created by special act. Termination of, etc.** Notwithstanding any provision in any special act to the contrary, any lien for sewer, drain or sidewalk assessments or for betterment assessments of any other nature created pursuant to the provisions of any special act shall continue in effect until the land subject to the lien has been alienated and the instrument alienating the same has been recorded and for such longer period as any special act may provide.

1943, 252, § 3.

## CHAPTER 92.

### METROPOLITAN DISTRICT COMMISSION.

#### SECT.

9. Plumbing of estates. Towns to construct intercepting sewers.

17. Public health department to protect Metropolitan water by rules, etc., publication.

76A. Certain municipalities, etc., on Charles river basin may take water therefrom, etc., under permit.

76B. Conditions as to permit, etc.

76C. Supplying manufacturing establishments with water, etc.

76D. Maintenance of water level, etc.

76E. Cities and Towns receiving permit may borrow money, etc.

**SECTION 1. Abolition, Metropolitan District Water Supply Commission. Function, Rights, Powers, Duties, Etc. Transferred to Metropolitan District Commission.** The metropolitan district water supply commission, however constituted, is hereby abolished, and all its functions, rights, powers, duties, obligations and properties are hereby transferred to and shall hereafter be exercised, performed and held by the metropolitan district commission, which shall be its lawful successor. Subject to the provisions of chapter three hundred and seventy-five of the acts of nineteen hundred and twenty-six and chapter seven hundred and five of the acts of nineteen hundred and forty-five, and acts in amendment thereof or in addition thereto, so far as applicable, said metropolitan district commission, to the extent that funds have been made available, shall construct all water and sewerage system projects now under construction by said metropolitan district water supply commission, and those authorized for future construction by said commission. All funds subject to expenditure by said metropolitan district water supply commission are hereby made available to said metropolitan district commission for the same purposes. All existing contracts and obligations of said metropolitan district water supply commission shall remain in full force and effect and shall be assumed and performed by said metropolitan district commission, and all orders, rules and regulations heretofore made by said metropolitan district water supply commission shall remain effective until duly revoked or modified by said metropolitan district commission.

1947, 583.

**SECTION 9. Plumbing of Estates. Towns to construct Intercepting Sewers.** In this section surface or storm water and such other waters as shall be specified by the department of public health shall be designated as waters and all other waters and sewage shall be designated as sewage. The owner of every estate whose sewage is to be taken into any metropolitan sewer shall, in plumbing his estate, so arrange the plumbing as to keep the waters separate from the sewage, and shall, as directed by the officer having charge of the maintenance of sewers in the town, make connections for, and conduct, the waters into the drain and the sewage into the sewer; but where only one conduit shall have been provided in the street by the town, such owner shall, as directed by said officer, construct said connections into the street and connect them with the conduit so provided, and the town shall provide the other conduit and all necessary connections with either conduit.

Any town, except Boston, using any metropolitan sewer may, in any year, and shall, in any year specified by the officer or board having charge of sewers, expend one twentieth of one per cent of its taxable valuation, to be met by loan outside the debt limit, in the construction, in connection with said sewers, of branch intercepting sewers, connections of existing sewers with intercepting sewers, branch drains, sewers or drains in any street where one thereof only shall have been built, and the necessary connection aforesaid.

The supreme judicial and superior courts may enforce this section.

1903, 383.  
1907, 464.

1919, 350, § 123.

G. L. 92, § 9.

**SECTION 17. Public Health Department to protect Metropolitan Water by Rules, etc. Publication.** The department of public health shall make rules and regulations for the sanitary protection of such waters used by the commission for the water supply of any



town or water company aforesaid. The commission shall cause such rules and regulations to be posted at or near the waters to which they respectively apply, and shall also cause the same to be published at least once in a newspaper published in the county where said waters are in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary of such posting and publication, or of the posting or publication of an order made by the commission, shall be prima facie evidence thereof. A copy of any such rule, regulation or order, attested by any member of the commission or by its secretary, shall be prima facie evidence that said rule, regulation or order was made by the department of public health or by the commission, as the case may be.

Any of such waters abandoned as a source of water supply of any town or water company aforesaid shall thereafter be open to all inhabitants of the commonwealth for fishing purposes.

1895, 488, § 24.  
1899, 308.  
1901, 168, §§ 1, 5.

1919, 350, § 128.  
G. L. 94, § 17.  
1926, 316, § 1.

1945, 693, § 1.  
1937, Op. A. G. 77.  
1941, Op. A. G. 37.

**SECTION 76A. Certain Municipalities, etc., on Charles River Basin may take Water therefrom, etc., under Permit.**

The metropolitan district commission, after a public hearing notice of which shall be sent to the state department of public health and to all cities and towns bordering on the Charles river basin, as defined by section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine and acts in amendment thereof and in addition thereto, and subject to the approval of said department of public health as hereinafter provided, may grant to any such city or town which accepts sections seventy-six A to seventy-six E, inclusive, by vote of the city council or selectmen a permit to take water from said basin for purposes of fire protection and of sale, at such price as the municipality may determine, to manufacturing establishments within its limits for cooling and condensing purposes. A city or town receiving such a permit may construct and maintain on lands owned by it all necessary works and pumping stations and may lay and maintain in such lands and in its streets all necessary mains and pipes, and, to such extent and on such terms and conditions as may be authorized in such permit, may lay said mains and pipes on or in lands under the control of the commission. Any permit granted hereunder shall prescribe the maximum amount of water which may be drawn from said basin thereunder, and the place and manner of taking said water and of the return of said water except such as is used for fire protection, and shall provide for the metering of said water both at the place of taking and of return, and for reimbursing the commission for all expenses of supervision and inspection. Such permit shall also prescribe the location, and the mode of construction and of laying, of all works, mains and pipes within lands under the commission's control, and such other terms and conditions as in the commission's opinion the public interest may require. No such permit shall be granted except in such form as shall be approved by said department of public health, and no construc-

tion shall be commenced or carried on thereunder until all plans and specifications have been submitted to and approved by said department.

1928, 238.

**SECTION 76B. Conditions as to Permit, etc.** Any such permit shall be upon the condition that water taken thereunder for purposes other than fire protection shall be supplied only to such manufacturers as can use it in a system of closed pipes without opening at any point within their premises; that it is to be discharged through a special system of outlet pipes into the basin or the canals thereof in a manner approved by the commission; and that no oil, refuse, or other substance which would be harmful to the water in the basin shall be added to the water before its return to the basin. Upon violation of any condition in the permit, or if in the opinion of the commission the use of water under the permit impairs the quality or, except for water used for fire protection, reduces the quantity of the water of the basin, the commission shall revoke the permit; and no new permit shall be granted unless the commission finds that there is no danger of future breach of condition of a permit when granted, or that the quality of the water of the basin will not be impaired.

1928, 238.

**SECTION 76C. Supplying Manufacturing Establishments with Water, etc.** No manufacturing establishment shall be supplied with water taken from the basin under a permit granted under the two preceding sections until proper and suitable connections have been made for use of city or town water, so that, in case of revocation of the permit, the manufacturing establishments affected may be supplied with water for cooling and condensing purposes from the water system of the city or town, but in such case the water after use shall not be discharged into the basin.

1928, 238.

**SECTION 76D. Maintenance of Water Level, etc.** No permit granted under sections seventy-six A and seventy-six B shall authorize the taking of water from said basin to such an extent as substantially to affect the maintenance of the water level in said basin at the height required by chapter four hundred and sixty-five of the acts of nineteen hundred and three and acts in amendment thereof, or in addition thereto, or in quantities, or in a manner, inconsistent with the purposes and provisions of the laws establishing and governing the maintenance of said basin.

1928, 238.

**SECTION 76E. Cities and Towns receiving Permit may borrow Money, etc.** For the purpose of meeting the expenses of constructing such works and of laying such mains and pipes, a city or town receiving a permit as aforesaid may borrow money, subject to the provisions of section eight of chapter forty-four of the General Laws, (Ter. Ed.).

1928, 238.



## CHAPTER 94.

INSPECTION AND SALE OF FOOD, DRUGS  
AND VARIOUS ARTICLES.

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## DEFINITIONS.

SECTION 1. Definitions. The following words as used in this section and the other sections of this chapter to which their definition is hereinafter respectively limited, unless the context otherwise requires, shall have the following meanings:

G. L. 94, § 1. Op. A. G. 1932. 1933, 87.

"Article of food", in sections sixty-six to seventy-three, inclusive, includes fresh meat, fresh meat products except in process of manufacture, fresh food fish, poultry, eggs and butter.

1912, 652, § 1. 1917, 149, § 1. G. L. 94, § 1.

"Bakery", in sections two to nine M inclusive, a building or part of a building wherein is carried on the production, preparation, packing, storing, display or sale of bread, cake, pies or other bakery products, including any separate room used for the convenience or accommodation of workers.

G. L. 94, § 1. 1920, 418, § 1. 1937, 362, § 1.

"Butter", the product usually known by that name which is manufactured exclusively from milk and cream with or without salt and with or without coloring matter. Butter shall contain not less than eighty per cent by weight of milk fat. Butter containing less than eighty per cent by weight of milk fat shall be deemed to be adulterated within the meaning of sections one hundred and eighty-six to one hundred and ninety-five, inclusive.

1881, 292, § 5. G. L. 94, § 1. 1938, 67, §§ 1, 5.  
P. S. 56, § 21. 1925, 117. 1937, 335, §§ 1, 2.  
R. L. 56, § 35.

"Cheese", the product made from the separated curd obtained by the action of coagulating agents on milk, either whole or skimmed, or partially skimmed, enriched with cream, salted and unsalted, colored or uncolored. The coagulation is accomplished by means of rennet or other suitable enzymes, lactic fermentation, or by a combination of the two. The curd may be modified by heat, pressure, ripening fer-



ments, special molds, and may contain suitable seasoning or flavoring agents.

1937, 362, § 2.

"Cream cheese", the soft uncured cheese made from cow's milk, either whole or skimmed, enriched with cream, salted or unsalted colored or uncolored, and with suitable coagulating agents, and with or without vegetable gums, which, if used, shall not be in excess of one half of one per cent by weight of the finished product. It shall contain not less than seventy per cent butter fat on a moisture free basis and not more than fifty-six per cent of moisture. Cream cheese may contain added flavoring ingredients when stated on the label, but such product shall contain not less than sixty per cent of butter fat on a moisture free basis.

1937, 362, § 2.

The definitions and standards of cheese bearing a descriptive name in addition to the word "cheese", not otherwise fixed by the laws of this commonwealth or by the department of public health under section one hundred and ninety-two, shall be those fixed and promulgated by the Food and Drug Administration of the United States Department of Agriculture.

1937, 362, § 2.

Sections one hundred and eight-six to one hundred and ninety-five, inclusive, shall apply to the adulteration or misbranding of all kinds of cheese.

1937, 362, § 2.

"Cold storage", in sections sixty-six to seventy-three, inclusive, and ninety-two, the storage of articles of food at or below a temperature of forty-five degrees Fahrenheit for a period of thirty days or more.

1912, 652, § 1.

1917, 149, § 1.

G. L. 94, § 1.

"Cold storage or refrigerating warehouse", in sections sixty-six to seventy-three, inclusive, and ninety-two, an establishment employing refrigerating machinery or ice for the purpose of refrigeration, or a place otherwise artificially cooled, where articles of food are stored for thirty days or more at or below a temperature of forty-five degrees Fahrenheit.

1912, 652, § 1.

1917, 149, § 1.

G. L. 94, § 1.

"Director", in sections twenty-five to thirty-one, inclusive, two hundred and twenty-seven to two hundred and thirty-five, inclusive, and two hundred and fifty-four to two hundred and sixty-one, inclusive, director of the Massachusetts agricultural experiment station.

"Drug", in sections one hundred and eighty-six to one hundred and ninety-six, inclusive, includes all medicines and preparations recognized in the United States pharmacopoeia or national formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of man or animal.

1882, 263, § 2  
1886, 171.

R. L. 75, § 17.  
1917, 208, §§ 6, 12.

G. L. 94, § 1.

"Food", in sections one hundred and eighteen to one hundred and fifty-one, inclusive, one hundred and fifty-four to one hundred and fifty-six, inclusive, one hundred and eighty-one, and one hundred and eighty-

six to one hundred and ninety-six, inclusive, includes all articles, whether simple, mixed or compound, used for food or drink, confectionery or condiment, by man or animal.

1882, 263, § 2  
1886, 171.  
1897, 344, § 2.

R. L. 75, § 17.  
1914, 653, § 3.  
G. L. 94, § 1.

1917, 208, §§ 6, 12.  
1949, 334, § 9.

"Heated milk", milk which has been subjected to artificial heat greater than one hundred and sixty-seven degrees Fahrenheit.

1908, 570, § 1.

G. L. 94, § 1.

"Oleomargarine" includes butterine, imitation butter and any article, substance or compound made in imitation or semblance of or as a substitute for butter and not made exclusively and wholly of milk and cream, or containing any fats, oils or grease not produced from milk or cream.

R. L., 56, § 35.

G. L. 94, § 1.

"Pasteurized milk", natural cow's milk not more than seventy-two hours old, when pasteurized, subjected for a period of not less than thirty minutes to a temperature of not less than one hundred and forty-two degrees Fahrenheit, or to such higher temperatures for such time intervals as the department of public health may from time to time determine, and in any case immediately thereafter cooled to a temperature of fifty degrees Fahrenheit or lower.

1917, 259, § 1.

G. L. 94, § 1.

1932, 158

"Sausage" or "sausage meat", in sections one hundred and forty-two to one hundred and forty-five, inclusive, a comminuted meat from neat cattle, swine or veal, or a mixture of such meats, either fresh, salted, pickled or smoked, with or without added salt, spices, cereal and the like, and with or without the addition of edible animal fats, blood and sugar, or subsequent smoking.

1914, 624, § 1.

G. L. 94, § 1.

301 Mass. 408

"Article of bedding", in sections two hundred and seventy to two hundred and seventy-three, inclusive, any mattress, upholstered spring, pillow, comforter, cushion, muff bed, quilt, or similar article designed for use of persons when sleeping.

"New", in sections two hundred and seventy and two hundred and seventy-two, any material which has not been used as a part or portion of another manufactured article or used for any other purpose.

"Previously used", "previously been used" or "been used before", when used with respect to material in sections two hundred and seventy C and two hundred and seventy-two, any material which has been used as a part or portion of another manufactured article or used for any other purpose.

"Article of upholstered furniture", in sections two hundred and seventy to two hundred and seventy-three, inclusive, chairs, sofas, and all furniture in which upholstery or so-called filling or stuffing is used whether attached or not.

1928, 307, § 1.

"Milk plant" and "manufactory" shall include, respectively, a place where milk or cream is received or purchased from producers for sale or resale and a place where it is so received or purchased for manufacture into other products, with or without facilities or equipment for its preparation for market or



for its manufacture, as the case may be, and with or without physical facilities, at the place where the milk or cream is purchased, for the receiving or physical handling thereof.

1933, 338, § 1.

'42-44, Op. A. G. 137.

"Enriched bread", in sections ten H to ten J, inclusive, shall mean white bread, rolls and buns which shall contain in the finished product thiamine, riboflavin, niacin or niacinamide, iron and calcium in quantities prescribed by the regulations of the department of public health.

"Enriched flour", in section ten H to ten J, inclusive, shall include flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, which shall contain thiamine, riboflavin, niacin or niacinamide, iron and calcium in quantities prescribed by the regulations of the department of public health; but does not include special flours not used for bread, roll, bun or biscuit baking such as specialty cake, pancake and pastry flours.

"Person", in sections ten H to ten K, inclusive, shall mean an individual, corporation, partnership, an association, joint stock company, a trust or an unincorporated organization, to the extent that the same may be engaged in the commercial manufacture or sale of flour, white bread or rolls.

"Rolls", in sections ten H to ten J, inclusive, includes plain white rolls and buns of the semi-bread dough type, such as soft rolls, hamburger, hot dog, or Parker House rolls and similar rolls, and also hard rolls, such as Vienna and Kaiser rolls and similar rolls, all made without fillings or icing, but shall not include yeast-raised sweet rolls and sweet buns, cinnamon rolls or buns, butterfly rolls or buns.

"White bread", in sections ten H to ten J, inclusive, shall mean any bread whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as "white bread", including but not restricted to Vienna bread, French bread and Italian bread.

1948, 444, § 1.

## BAKERIES AND BAKERY PRODUCTS.

**SECTION 2. Floors, etc., to be kept Clean, etc. Use of Shipping Baskets, etc., regulated.** The floors, walls and ceilings of each bakery, the equipment used in the handling or preparation of bakery products or the ingredients thereof, and the wagons, boxes, baskets and other receptacles in which such products are transported, shall at all times be kept by the owner or operator of the bakery or by the distributor of such products in a clean and sanitary condition and free from dirt and dust, flies, insects and other contaminating matter. All show cases, shelves and other places where bakery products are sold shall at all times be kept by the dealer well covered, properly ventilated, adequately protected from dirt and dust, flies, insects and other contaminating matter, and in a sweet, clean and sanitary condition. Shipping baskets and other containers for transporting bakery products shall be kept clean and, whenever the property of a distributor

or dealer, shall not be used for the shipment of other products to any person or concern.

1920, 418, §§ 9, 10.

G. L. 94, § 2.

Op. A. G. (1926), 140.

**SECTION 3. Storage, etc., of Bakery Products, etc., regulated.** All bakery products and ingredients thereof shall be stored, handled, transported and kept so as to protect them from spoilage, contamination, disease and unwholesomeness. Boxes and other permanent receptacles or containers for the storing, receiving or handling of bakery products shall be so placed and constructed as to be beyond the reach of contamination from streets, alleys and sidewalks and from animals, and shall be kept clean and sanitary by the dealer. No other articles shall be placed therein in addition to said products. No person shall tamper with, injure or contaminate said boxes, receptacles or containers, nor shall any person other than the baker or dealer or his employees remove anything therefrom or place anything therein.

1920, 418, §§ 11, 12  
G. L. 94, § 3.

Op. A. G. (1926), 140.  
8 Op. A. G. 146.

**SECTION 4. Preparation of Bakery Products, etc., regulated.** There shall not be used in bakery products or in the ingredients thereof any ingredient or material, including water, which is spoiled or contaminated or which may render the product unwholesome, unfit for food or injurious to health, nor shall there be used in any bakery product any ingredient likely to deceive the consumer or which lessens the nutritive value of such product unless the product is plainly so labelled, branded or tagged, or has thereon a sign making plain to the purchaser or consumer the actual ingredients thereof; provided, that in the case of unwrapped bread to be sold by the loaf such labelling, branding or tagging shall be placed upon the label required under section eight, showing the name of the manufacturer and the net weight of the loaf. Said ingredients and the sale and offering for sale of said products shall otherwise comply with sections one hundred and eighty-six to one hundred and ninety-five, inclusive.

1915, 258, § 1.  
G. L. 94, § 4.  
1920, 418, §§ 12,  
13, 28.

240 Mass. 437.  
Op. A. G. (1926), 140.

310 Mass. 232.

**SECTION 5. Return, etc., of Bakery Products regulated. Certain Exemptions.** Except as provided in section six, no bakery products shall be returned from any consumer or other purchaser to the dealer or baker, nor from any dealer to the baker, nor shall any dealer or baker directly or indirectly accept any returns from or make any exchange of bakery products with any person. All such products shall be kept moving to the consumer without unreasonable delay and without any practice whatsoever which may disseminate contagion or disease among or inflict fraud upon consumers, or disseminate "rope", so-called, or other infection in bakeries, or cause waste in the food supply; provided, that this section, except in so far as may be necessary to prevent such waste, shall not apply to crackers or other bakery products which are packed at the place of production in cartons, cans, boxes or similar permanent containers, except paper or parchment wrappers used



in wrapping loaves of bread, and which are so packed and sealed at such place as fully to insure the freshness and wholesomeness of such products and to protect them from contamination, adulteration and deterioration in the course of trade, and which remain in the original unbroken package as packed.

1920, 418, § 14.

G. L. 94, § 5.

Op. A. G. (1926), 140.

**SECTION 6. Establishment and Enforcement of Rules, etc., relative to Exemptions, Standards, etc.** The department of public health may, by rule, establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bakery products, and in other cases consistent with sections two to six, inclusive, and section nine I. The standards and requirements prescribed by section two to six, inclusive, shall conform to rules and regulations adopted by the department of public health, and said sections and rules and regulations shall be enforced by said department and by local boards of health acting under the supervision of said department.

1920, 418, §  
G. L. 94, §

Op. A. G. (1926), 140.

1937, 362, § 6

**SECTION 7. Weight of Loaves.** Except as provided in Section Eight, bread shall not be manufactured for sale, sold, or offered or exposed for sale otherwise than by weight, and shall be manufactured for sale, sold, or offered or exposed for sale only in units of one pound, one and one half pounds, or multiples of one pound. When multiple loaves are baked, each unit of the loaf shall conform to the weight required by this section. The weights herein specified shall mean net weights not more than twelve hours after baking, or not more than twelve hours after the sale and delivery of such loaves by the manufacturer or by his servant or agent. Such weights shall be determined by the average weight of not less than six loaves; provided, that such average weights shall be determined by the weight of at least twelve loaves whenever such number of loaves is available at the time and place of such weighing; and provided further, that bread found upon any premises occupied for the manufacture of bread for sale, or any bread found in the wagons, trucks, baskets, boxes, or other delivery vehicles or receptacles owned or controlled by the manufacturer of such bread, and being transported or delivered for sale, shall for the purposes of this section be deemed to have been baked within twelve hours unless such bread is marked, designated or segregated as stale bread, under regulations prescribed by the director of standards.

G. L. 8.

1896, 9.

1720-21, 2.

1800, 76, § 1.

1859, 174, §§ 3, 4.

G. S. 49, § 5.

P. S. 60, §§ 3, 5.

R. L. 57, §§ 3, 5.

1920, 418, §§ 16, 23.

G. L. 94, § 7.

1922, 186, § 1.

152 Mass. 522.

1941, 490, § 19.

**SECTION 8. Special Provisions as to Rolls, etc., and Certain Bread.** Unit weights, as defined in the preceding section, shall not apply to rolls or to fancy bread weighing less than four ounces, nor to loaves bearing in plain position a plain statement of the weight of the loaf and the name and business address of the manufacturer thereof. Such information shall be stated in case of wrapped bread, upon the wrapper of each loaf; provided that, when cello-

phane or similar transparent wrappers are employed, the director of standards may authorize the placing of a statement of such information between such transparent wrapper and the top of the loaf in such manner that such statement may be easily read through the wrapper. In the case of unwrapped bread such information shall be stated upon a printed label not larger than one by one and three quarters inches nor smaller than one by one and one half inches. No label, attached to an unwrapped loaf, shall be larger than provided herein, nor shall any such label be affixed in any manner or with any gum or paste which is unsanitary or unwholesome. When an inspection of bread is made at any bakery by the director or any inspector of standards or sealer of weights and measures, the manufacturer of such bread, or his servants or agents, shall, upon request of the official making such inspection, inform him whether such bread is manufactured for sale in any of the standard unit weights prescribed by the preceding section and, if not so manufactured for sale in such standard unit weights, shall furnish such official with samples of the labels or wrappers intended to be used on all such loaves of other than standard unit weights.

1859, 174, §§ 2, 4.

G. S. 49, § 9.

P. S. 60, § 7.

R. L. 57, § 7.

1914, 653.

1916, 157.

G. L. 94, § 8.

1920, 418, §§ 16, 23.

1921, 94.

1922, 186, § 2.

1937, 58.

Op. A. G. (1926), 140.

7 Op. A. G. 702

**SECTION 9. Establishment and Enforcement of Certain Rules, etc., by Director of Standards.** The director of standards and necessities of life shall prescribe such rules and regulations as are necessary to enforce the two preceding sections, including reasonable tolerances or variations within which all weights shall be kept; provided, that such tolerances or variations shall not exceed one ounce per pound under the standard unit or marked weight. The said director, and under his direction the local sealers of weights and measures, shall cause this section to be enforced. They may seize without warrant any bread which they may deem necessary to be used as evidence of violation of law, giving a receipt therefor, and such bread shall be returned to the owner or forfeited as the court may direct. Before any prosecution is begun under this section by any inspector of standards, the parties concerned shall be notified and given an opportunity to be heard before the director. Before any prosecution is begun under this section by any sealer or deputy sealer of weights and measures, the parties concerned shall be notified and given an opportunity to be heard before the sealer and shall have the right of appeal to the director of standards and necessities of life; provided, that such appeal is filed with said director in writing within five days from the finding of the local sealer. When such appeal has been entered no prosecution shall be begun until the charges have been reviewed by said director.

1908, 197.

1914, 653, §§ 7, 8.

1920, 418, §§ 17, 23.

G. L. 94, § 9.

1922, 186, § 3.

1939, 261, § 6.

7 Op. A. G. 702, 703

## BAKERIES.

**SECTION 9A. Construction of Bake Rooms.** Every room used for the manufacture of flour or meal food



products shall, if required by the board of health, have an impermeable floor constructed of cement or tiles laid in cement, and an additional floor of wood properly saturated with linseed oil. The walls and ceiling of such room shall be plastered or wainscoted, and if required by the board of health, shall be whitewashed at least once in three months. The furniture and utensils therein shall be so arranged that they and the floor may at all times be kept clean and in good sanitary condition.

1937, 362, § 3.

**SECTION 9B. Sleeping Places Regulated.** The sleeping places for persons employed in a bakery shall be separate from the rooms where flour or meal food products are manufactured or stored.

1937, 362, § 3.

**SECTION 9C. Notice Requiring Alterations.** The owner, agent or lessee of any property affected by section nine A shall, within sixty days after service of written notice requiring any alterations to be made in such property, comply therewith. Such notice may be served upon such owner, agent or lessee personally or by mail directed to his last known address.

1937, 362, § 3.

**SECTION 9D. Rules, Regulations of Board of Health.** Except as provided in section nine F, boards of health may make such further regulations as the public health may require, and shall cause such regulations, together with sections nine A to nine E, inclusive, to be printed and posted in all such bakeries and places of business.

1937, 362, § 3.

**SECTION 9E. Penalty for Violation of Three Preceding Sections.** Whoever violates any provision of sections nine A to nine C, inclusive, or refuses to comply with any requirement of the board of health authorized therein or in the preceding section shall be punished for a first offence by a fine of not less than twenty nor more than fifty dollars; for the second offence by a fine of not less than fifty nor more than one hundred dollars or by imprisonment for not more than ten days; and for any subsequent offence by a fine of not less than two hundred and fifty dollars or by imprisonment for not more than one month, or both.

1937, 362, § 3.

**SECTION 9F. Rules and Regulations of Department of Public Health.** The department of public health may make rules and regulations to carry out sections nine G to nine M, inclusive. Said sections and the rules and regulations shall be enforced by said department and by the local boards of health acting under the supervision of said department; provided, that the provisions of sections nine G and nine H relating to the health of employees shall be enforced by the department of labor and industries in accordance with such rules and regulations as it may prescribe. Sections nine G, nine H, nine J and nine M shall not apply to retail stores where bakery products are sold but not produced.

1937, 362, § 3.

**SECTION 9G. Construction of Bakeries.** Every bakery shall be constructed, drained, lighted, ventilated and maintained in a clean and sanitary condition, and when and where necessary screened against flies; shall have plumbing and drainage facilities, together with suitable wash basins, wash sinks and toilets or water closets, which shall be kept in a clean and sanitary condition. The said toilets or water closets shall be in rooms having no direct connection with any room in which bakery products or ingredients are prepared, stored, handled or displayed.

1937, 362, § 3.

**SECTION 9H. Dressing Rooms for Bakery Employees.** In connection with every bakery suitable rooms shall be provided for the changing and hanging of the wearing apparel of the workers or employees, which shall be separate and apart from the work, storage and sales rooms, and shall be kept in a clean and sanitary condition.

1937, 362, § 3.

**SECTION 9I. Lounging, etc., on Bakery Equipment; Ban on Animals or Fowls.** No person shall sit, lie or lounge, or be permitted to sit, lie or lounge upon any of the tables, shelves, boxes or other equipment or accessories used in connection with the production, preparation, packing, storing, display or sale of bakery products. No animals or fowls shall be kept in or permitted to enter any building or part thereof used for such production, preparation, packing, storing, display or sale.

1937, 362, § 3.

**SECTION 9J. Cleanliness of Employees.** Before beginning the work of preparing, mixing or handling any ingredients used in the production of bakery products, every person engaged in such work shall wash the hands and arms, and, after using toilets or water closets, shall wash the hands and arms thoroughly and then rinse in clean water; and for this purpose the owner or operator of the bakery shall provide sufficient facilities.

1937, 362, § 3.

**SECTION 9K. Notice to Owner or Manager of Failure to Comply with Law.** If, after inspection, it is found that a bakery is not constructed, maintained, operated or the distribution of its products not conducted in accordance with sections two to six, inclusive, and sections nine F to nine J, inclusive, written notice shall be given to the owner or manager, stating the delinquency, and fixing a reasonable time within which the same shall be remedied and for hearing any party in interest.

1937, 362, § 3.

**SECTION 9L. Ordering Bakery Closed.** If a bakery is unfit for the production or handling of food or dangerous to the health of its employees, the department of public health or local board may order it closed; provided, that any person aggrieved may be heard before said department or board, and may also appeal before or after the execution of the order, but within thirty days after its issue, to the superior court.

1937, 362, § 3.



**SECTION 9M. Approval of Building Plans and Equipment of New Bakeries.** No new bakeries shall be established unless the building plans and equipment proposed to be used have been approved by the local board of health. The board shall refuse a permit for such bakery if the building and equipment do not comply with sections two to six, inclusive, and sections nine F to nine J, inclusive, and rules and regulations made thereunder; provided, that any party in interest may appeal to the department of public health or to the superior court. Said department or court may affirm, reject or modify the findings of the board, and said board shall thereupon proceed in accordance with the order of the court or department.

1937, 362, §§ 3, 6, 7.

**SECTION 10. Penalty.** Whoever violates any provision of sections two to nine, inclusive, or sections nine F to nine M, inclusive, or of any rule or regulation adopted thereunder, or whoever fails or refuses to comply with any request for information made under authority of said sections, shall be punished by a fine of not more than one hundred dollars.

1800, 76, § 2.  
1859, 174, § 5.  
G. S. 49, § 8.  
1870, 395.  
P. S. 60, § 6

R. L. 57, § 6.  
1908, 197.  
1914, 653, § 6.  
1915, 258, § 2.  
G. L. 94, § 10.

1920, 418, §§ 22, 23.  
1922, 186, § 4.  
6 Op. A. G. 281.  
1937, 362, § 4

#### NON-ALCOHOLIC BEVERAGES.

**SECTION 10A. Permits Required for Manufacture or bottling, etc.** No person shall engage within the commonwealth in the business of manufacturing or bottling carbonated non-alcoholic beverages, soda waters, mineral or spring waters without a permit so to do from the board of health of the town where his plant is or is to be located, and no person engaged without the commonwealth in said business shall sell any such beverage within the commonwealth without a permit from the state department of public health, and no person shall sell or exchange, deliver, advertise, or offer or expose for sale or exchange, or attempt to deliver, or have in his possession with intent so to do, any such beverage unless the manufacturer and bottler thereof is the holder of a permit issued under authority of section ten B and then in full force.

G. L. 94, § 10A.

1921, 303.

1935, 441.

**SECTION 10B. Who May Grant Permits; Expirations; Fees.** Local boards of health may grant permits to engage within their respective municipalities in the business of manufacturing or bottling of beverages specified in the preceding section, and the state department of public health may grant permits to the owners of plants for the manufacture or bottling of such beverages located without the commonwealth to sell such beverages within the commonwealth. Such a permit granted by said department shall apply only to one such plant and shall be valid throughout the commonwealth. Each permit granted under this section shall expire one year from the date of its issue. The fee for each such permit and for each annual renewal thereof shall be twenty dollars. Each local board of health shall pay to the state department of public health, for the use of the commonwealth, one half of the fee collected for each

permit granted by it hereunder and shall send to said department a copy of each such permit so granted.

1935, 441.

Op. A. G. 1936.

**SECTION 10C. Examination of Premises; Revocation of Permit:** The premises of any person granted a permit under section ten B shall, from time to time, be examined by the state department of public health and, if granted by the local board of health, by the board which granted it, and if such premises or the equipment used therein in connection with the business of such person is found to be in an unsanitary condition, or in violation of any provision of the rules and regulations made under section ten E, such permit may be revoked by said department or by the local board of health which granted it, as the case may be, after a hearing, ten days' written notice of which shall be given to such person.

G. L. 94, § 10C.

1935, 441.

6 Op. A. G. 403.

1921, 303.

**SECTION 10D. Ingredients Regulated.** All materials used in the manufacture of beverages specified in section ten A shall be stored, handled, transported and kept in such a manner as to protect them from spoilage, contamination and unwholesomeness. No ingredient or material, including water, shall be used in the manufacture or bottling of any such beverage which is spoiled or contaminated, or which may render the product unwholesome, unfit for food, or injurious to health. Persons granted permits under section ten B shall comply with sections one hundred and eighty-six to one hundred and ninety-six, inclusive.

G. L. 94, § 10D.

1935, 441.

6 Op. A. G. 403.

1921, 303.

**SECTION 10E. Department and Local Boards to Make Rules.** The state department of public health and local boards of health may make rules and regulations to carry out the four preceding sections.

1921, 303.

1935, 441.

G. L. 94, § 10E.

**SECTION 10F. Penalty.** Whoever violates any provision of sections ten A to ten E, inclusive, or of any rule or regulation made thereunder, shall be punished for a first offence by a fine of not more than one hundred dollars and for a subsequent offence by a fine of not more than five hundred dollars.

G. L. 94, § 10F.

1935, 441.

6 Op. A. G. 403.

1921, 303.

1941, 119.

**SECTION 10G. Application of Sections 10A-10F.** The provisions of sections ten A to ten F, inclusive, shall not apply to persons registered under sections thirty-seven to forty, inclusive, of chapter one hundred and twelve.

1935, 441.

**SECTION 10H. Enrichment of Bread and Flour.** No person shall manufacture, bake or compound for the purposes of sale, or sell, offer for sale or have in possession with intent to sell in this commonwealth for human consumption, any white bread or rolls unless such bread or rolls conform to the definition of "enriched bread" as set forth in section one; and no person shall sell or offer for sale or deliver to any person other than to a wholesale distributor of such flour and flour for human consumption unless such



flour conforms to the definition of "enriched flour" as set forth in section one; provided, that a manufacturer or wholesale distributor of flour may upon the written request of a commercial manufacturer or baker of bread or rolls, and in accordance with the regulations of the department of public health, sell and deliver to such manufacturer or baker unenriched flour. Such baker or manufacturer electing to purchase unenriched flour for use in the manufacture of white bread or rolls shall furnish to the department of public health information pertaining to the source of supply of such flour, the quantities purchased, and the method of compliance with the enrichment requirements of this chapter as to white bread and rolls of his manufacture, in accordance with the regulations of said department.

1948, 444.

**SECTION 10I. Standards and Tolerances.** The department of public health shall enforce the provisions of sections ten H and ten K, inclusive, and shall from time to time make, amend or rescind rules and regulations for the enforcement thereof. Said rules and regulations shall include standards and tolerances of enrichment, and shall specify the quantities in the enriching ingredients necessary for compliance with the definitions of "enriched bread" and "enriched flour", respectively, as set forth in section one, consistent with law and conforming to the standards and tolerances, if any adopted under the provisions of the federal food, drug and cosmetic act for the enforcement of federal law. Said rules and regulations with respect to labeling requirements as set forth in section ten J shall conform to the labeling requirements, if any, adopted for the enforcement of federal law.

The department of public health and the inspectors appointed under the provisions of chapter one hundred and eleven, sections nine, may conduct examinations and investigations and may take samples of flour, white bread or rolls for analysis to determine compliance with the provisions of sections ten H to ten K, inclusive. Said inspectors may enter at any reasonable time any factory, mill, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof for the purpose of inspection and investigation for the enforcement of these sections; provided, that nothing in this paragraph shall be deemed to authorize any interference with interstate commerce.

1948, 444.

**SECTION 10J. Labelling.** No person shall sell or offer for sale or have in possession with intent to sell in this commonwealth for human consumption any flour or wrapped white bread or rolls which meet the requirements of section one and section ten H unless such flour or bread or rolls are labeled with respect to enrichment as provided and set forth in the regulations of said department; provided, that this section shall not apply to white bread or rolls which are sold directly to the consumer by the manufacturer thereof.

1948, 444.

**SECTION 10K. Penalty.** Whoever violates any provisions of section ten H to ten J, inclusive, or any rule or regulation of the department of public health promulgated thereunder shall be punished by a fine of not more than one hundred dollars for the first offence or by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than three months, or both, for each subsequent offence. The act, omission or failure of an agent or employee shall be deemed to be the act, omission or failure of the person referred to in sections ten H to ten K, inclusive, as defined in section one.

1948, 444.

#### BAKING POWDER.

**SECTION 11. Labelling of Baking Powder regulated. Penalty.** Whoever manufactures for sale or offers or exposes for sale or sells any baking powder or mixture or compound intended for use as a baking powder under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of each box, can or package containing such baking powder or like mixture or compound, a label, distinctly printed in brevier gothic capital letters in the English language, containing the name and residence of the manufacturer and the ingredients of the baking powder, mixture or compound. Whoever violates any provision of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.

1902, 540.

G. L. 94, § 11.

#### MILK AND CREAM.

**SECTION 12. Standard for Cream, Milk and Skimmed Milk.** The Massachusetts legal standard for milk shall be milk which upon analysis is shown to contain not less than twelve per cent of milk solids and not less than three and thirty-five hundredths per cent of milk fat. The Massachusetts legal standard for skimmed milk shall be skimmed milk containing not less than nine and three tenths per cent of milk solids exclusive of milk fat. The Massachusetts legal standard for cream or ungraded cream shall be cream which upon analysis is shown to contain not less than sixteen per cent of milk fat. The Massachusetts legal standard for the grades to be known as light cream, medium cream, heavy cream and extra heavy cream, shall be cream which, upon analysis is shown to contain not less than sixteen, twenty-five, thirty-four and thirty-eight per cent, respectively, of milk fat.

1880, 209, § 7.

1907, 216.

148 Mass. 418.

P. S. 57, § 9.

1908, 643.

184 Mass. 207.

1885, 352, §§ 6, 8.

1917, 189.

189 Mass. 342.

1886, 818, § 2.

G. L. 94, § 12.

205 Mass. 384.

1896, 398, § 2.

1929, 267, § 1.

5 Op. A. G. 56.

1899, 223.

132 Mass. 11.

Op. A. G. 1931.

R. L. 56, §§ 55, 56.

139 Mass. 193.

This section applies also to cream (*Commonwealth v. Gordon*, 159 Mass. 8; *Commonwealth v. Elm Farm Milk Co.*, 221 Mass. 68), and to milk sold to be drunk on the premises (*Commonwealth v. Vieth*, 155 Mass. 442; *Commonwealth v. Warren*, 160 Mass. 533). It does not apply to concentrated milk. *Commonwealth v. Boston White Cross Milk Company*, 209 Mass. 30.



The section is constitutional. *Commonwealth v. Waite*, 11 Allen, 264; *Commonwealth v. Wheeler*, 205 Mass. 384.

Ignorance of the adulteration or unintentional adulteration is no defence. *Commonwealth v. Farren*, 9 Allen, 489; *Commonwealth v. Nichols*, 11 Allen, 199; *Commonwealth v. Smith*, 103 Mass. 444; *Commonwealth v. Warren*, 160 Mass. 533; *Commonwealth v. Graustein & Co.*, 209 Mass. 38.

Evidence that the milk was bought under contract is immaterial. *Commonwealth v. Holt*, 146 Mass. 38. For other matters of evidence and pleading, see 141 Mass. 129; 143 Mass. 169, 418; 146 Mass. 128, 512; 189 Mass. 342. It is not necessary to set forth in the complaint the manner in which the milk was adulterated. *Commonwealth v. Keenan*, 139 Mass. 193; *Commonwealth v. Bowers*, 140 Mass. 483. It is immaterial whether or not the adulteration is injurious. *Commonwealth v. Phelps*, 210 Mass. 109.

In prosecution under this section books and articles stating that milk may be pure even if found to be below the percentage of fat required by our statutes are inadmissible in evidence. *Ibid.*

Under this section it is an offence to sell skimmed milk to which water or any other foreign substance has been added, or skimmed milk produced from cows fed on the refuse of distilleries, or from sick or diseased cows. *Commonwealth v. Wetherbee*, 153 Mass. 159.

The provision of R. L., c. 56, § 55, which prohibits having in possession with intent to sell milk to which water has been added, is violated by having in possession with such intent cream, separated from milk by a centrifugal process to which water has been added. *Commonwealth v. Elm Farm Milk Company*, 221 Mass. 68.

**SECTION 13. Milk Regulation Board.** The milk regulation board established under section forty-two of chapter six, in this and the following section called the board, after a hearing as provided in the following section and with the approval of the governor and council, shall make rules and regulations establishing grades of milk, one of which shall be termed "Grade A," and regulating, and establishing standards for, the production, processing, labelling and sale of milk of such grades, including bacterial standards and sanitary standards for all grades of milk and fat standards and milk solids standards for grade A milk. The board may also by such rules and regulations establish any food or nutritional standards for special grades of milk and may specify how such special grades of milk shall be tested prior to being sold or delivered, or offered for sale or delivery. The board may from time to time, after like hearing and with like approval, amend any rule or regulation adopted and approved under this section. No standard established by said board shall fall below the Massachusetts legal standard for milk, or any standard hereafter prescribed by law for milk of the same grade to which the standard established by the board relates.

1917, 256, §§ 1, 2, 4.  
1918, 170.

G. L. 94, § 13.  
1924, 810, §§ 1, 2.

1933, 263, § 1.  
Op. A. G. 1931.

**SECTION 13A. Rules and Regulations to be approved by Governor and Council.** The board, before

submitting such rules and regulations to the governor and council for approval, shall hold a public hearing thereon and shall give notice thereof by mail, postage prepaid, to all parties known to it to be directly interested. After adopting rules and regulations under section thirteen, the board shall publish the same in a newspaper covering in circulation each county in the commonwealth, at least fourteen days before submitting them for the approval of the governor and council. Any person objecting to such rules and regulations may within seven days after such publication petition the governor and council for a hearing before approval of the same, and the governor and council shall hear the petitioner, after giving due notice to the board and to all persons appearing at the hearing before the board whose attendance appears of record. The governor and council shall notify the board, within thirty days of such submission or within thirty days of such hearing, of their action on such rules and regulations. The provisions of this section relative to notice and publication shall apply to amendments of such rules and regulations, except that the governor and council may, upon the application of the board, authorize it to dispense with such notice and publication with regard to amendments deemed by the governor and council to be unimportant or of an emergency nature.

G. L. 94, § 13A.

1933, 263, § 1.

1948, 227.

**SECTION 13B. Labelling of Packages Containing Graded Milk.** Any person selling milk graded as described in the rules and regulations adopted and approved under sections thirteen and thirteen A, or amended from time to time under authority thereof, in addition to such labelling as may be required, may state upon the package in which such milk is contained the state wherein such milk was produced, provided that all the milk contained in such package so labelled was produced exclusively in one state.

1933, 263, § 1

**SECTION 13C. Penalty for Selling Other Than Graded Milk.** Except as otherwise provided in section thirteen D, whoever sells or offers for sale any milk of any grade other than one established under authority of sections thirteen and thirteen A, or labels or sells or offers for sale any milk labelled in imitation of any grade so established, shall be punished by a fine of not more than fifty dollars.

1933, 263, § 1

**SECTION 13D. Misrepresenting Milk, Penalty.** Whoever himself or by his servant or agent sells, offers for sale, exchanges or delivers or has in his custody or possession with intent to sell, offer for sale, exchange or deliver any milk designated as any grade established under authority of sections thirteen and thirteen A, and not conforming to any standard adopted for such grade, or any milk in any city or town, the board of health whereof has adopted under authority of section thirteen E bacterial standards for any grade of milk, and not conforming to such standards, or in any way violates any rule or regulation adopted and approved, or amended, under said sections thirteen and thirteen A, shall be punished by a fine of not more than fifty



dollars; provided, that for a subsequent offence within one year thereafter the punishment shall be by a fine of not less than one hundred nor more than two hundred dollars.

1938, 263.

**SECTION 13E. Boards of Health May Adopt Standards.** Boards of health of cities and towns may adopt bacterial standards for any grade of milk established under sections thirteen and thirteen A by the board, which shall be numerically less but not greater than such standards established by the board for any such grade. The establishment of any grade of milk under authority of said sections thirteen and thirteen A shall not be construed to prevent the exercise by such boards of the powers and duties conferred and imposed upon them by sections forty-one and forty-three, nor shall it be construed to prevent the sale of milk the production of which is regulated under authority of sections twenty to twenty-five, inclusive, of chapter one hundred and eighty; but this section shall not be deemed to authorize the sale or delivery of any milk designated as any grade established under said sections thirteen and thirteen A and not conforming to the standard so established for such grade, nor to authorize any violation of any rule or regulation adopted and approved, or amended, under said sections.

1933, 263.

**SECTION 16. Definitions.** For the purposes of sections sixteen to sixteen I, inclusive, the following words shall have the following meanings:

"Board", the milk regulation board, established under section forty-two of chapter six.

"Dairy farm", a place or premises where more than two cows are kept and a part or all the milk produced thereon is sold or delivered for sale to any person.

"Director", the director of the division of dairying and animal husbandry of the department of agriculture.

For the purposes of sections sixteen to sixteen I, inclusive, the director shall act under the supervision and control of the board. Said sections shall not apply to cream complying with the proper Massachusetts legal standard for cream established by section twelve.

G. L. 94, § 16.

1932, 305, § 3.

**SECTION 16A. Certificate of Registration for Sale of Milk Produced on Dairy Farm.** Except as provided in section sixteen H, no person shall sell or offer or expose for sale milk produced on a dairy farm, for use or disposal elsewhere than on such farm, unless as to such farm a certificate of registration has been issued by the director under section sixteen C and is in full force and effect; provided, that one who purchases such milk from a dealer registered under section sixteen F and sells or offers or exposes the same for sale shall not be deemed to have violated this section unless he knows or has reasonable ground to know that the same was not produced on a farm as to which such a certificate has been issued.

1932, 305, § 3.

**SECTION 16B. Application for Registration of Dairy Farms, Contents.** Applications for the registration of dairy farms under section sixteen C shall

be made upon blanks furnished by the director and shall contain, in addition to such other information as may be required by the director, a statement of the name, place of residence and business address of the applicant, the amount of milk produced on his dairy farm during the calendar month last preceding the date of application, the number of dairy cows more than two years of age and the number of heifers less than two years of age kept on said dairy farm during said month, the names and business addresses of dealers, distributors and wholesale purchasers who receive milk from said dairy farm, together with a statement of the estimated amount of milk to be supplied each dealer, distributor and wholesale purchaser during such period as may be designated by the director. Every statement shall be verified by oath or written declaration that it is made under the penalties of perjury.

1932, 305, § 3.

**SECTION 16C. Issuance and Renewal of Certificates.** The director may issue, and may from time to time renew, certificates of registration for dairy farms. No certificate of registration for a dairy farm shall be issued or renewed by the director, except as hereinafter provided, until he has made or caused to be made at least one inspection of said farm within one year prior thereto, and unless said inspection clearly indicates a satisfactory compliance with the uniform minimum requirements for dairy farm inspection established under section forty-two of chapter six. The director may accept the inspection reports of milk inspectors within the commonwealth in respect to dairy farms located within or without the commonwealth which have been inspected by them, and, if such reports state that such dairy farms have complied with said minimum requirements, certificates of registration may thereupon issue. Each dairy farm registered by the director shall receive without cost a numbered certificate of registration, which shall, while in effect, be posted in a conspicuous place at all times on said farm. Each certificate of registration of a dairy farm located in the commonwealth shall expire on the following June thirtieth, and each certificate of registration of a dairy farm located outside the commonwealth shall expire on such date as the board shall determine, but not within one year from its date of issue. Annual applications for renewal of certificates shall be made not less than thirty days prior to the expiration date on forms furnished by the director. If a certificate of registration is lost, duplicate copies may be obtained from the director at a cost of fifty cents each.

1932, 305, § 3.

1941, 374.

1946, 467.

**SECTION 16D. Refusal, Revocation or Suspension of Certificate.** A certificate of registration of a dairy farm may be refused, suspended or revoked by the director for failure to comply with such rules, regulations and uniform minimum requirements; provided, that before any such suspension or revocation becomes effective, or upon such refusal, the parties concerned shall be given a hearing before the director or a person designated by him for such purpose. The parties concerned shall be given a reason-



able notice of the hearing, specifying the day, hour and place thereof and accompanied by a statement of the alleged failure to comply, or the reasons for such refusal. The director may allow the parties concerned a period of not more than thirty days from the date of the hearing within which to make a substantial compliance with said rules, regulations and uniform minimum requirements. An appeal from the decision of the director may be taken to the board, whose decision shall be final. Notice of the refusal, suspension or revocation of a certificate of registration shall be given to each distributor or dealer of record handling milk produced on such dairy farm, and to the board of health of each town of record where milk produced on such dairy farm is sold, offered or exposed for sale. In case of emergency, the department of public health may suspend or revoke any such certificate of registration.

1932, 305, § 3.

**SECTION 16E. Statements to be submitted by Producers of Milk.** Producers of milk whose dairy farms are registered hereunder shall submit upon a form furnished by the director at such other times as he may request a complete statement for any one calendar month, the same to be made in accordance with the provisions and requirements of section sixteen B.

1932, 305, § 3.

**SECTION 16F. Wholesale or Retail Dealers of Milk to Register with Director.** Each person, not a producer of milk, whose principal business is the sale at wholesale or retail of milk, shall, before commencing to transact such business, register as a dealer with the director, and shall thereafter annually so register during the month of June, and upon every such registration shall state the address of each of his places of business, the names and addresses of producers supplying him the milk, with the number of quarts of milk supplied by each producer during the last calendar month preceding registration. The director may require each such person to prepare and submit to him, upon a form furnished by him therefor, at such other times as he may require, a further statement of similar information relating to any one calendar month. Every statement shall be verified by oath or written declaration that it is made under the penalties of perjury. Registrations made under this section shall expire on the following June thirtieth, and applications for renewals thereof shall be made on forms furnished by the director.

1932, 305, § 3.

**SECTION 16G. Temporary Certificates of Registration for Dairy Farms, etc.** The director may issue a temporary certificate of registration for any dairy farm registered under the provisions of section sixteen C pending an official inspection and such consequent action as may be necessary relative to the renewal or non-renewal of the certificate of registration, and may revoke a certificate so issued.

1932, 305, § 3.

**SECTION 16H. Areas for Milk Supply.** The board shall designate, as qualified areas for additional milk supply, states, or parts thereof, wherein milk is pro-

duced on dairy farms subject to inspection substantially similar to that required by the board in this commonwealth and whose geographical location will reasonably guarantee the delivery of milk of a satisfactory quality for the Massachusetts market. Dairy farms in said states, or parts thereof, shall thereupon be deemed to be registered within the meaning of section sixteen to sixteen I, inclusive, and shall be entitled to certificates of registration without further inspection; provided, that no such certificate shall be granted for such a dairy farm if upon inspection, the director shall deem that satisfactory compliance with the Massachusetts uniform minimum requirements for dairy farm inspection does not exist thereat. Any producer of milk within any state or part thereof, not designated as a qualified area as aforesaid, shall, within a period of one year after his application therefor, be entitled to have his dairy farm inspected by the director, or by an agency designated by the director, and shall not be refused a certificate of registration for any reason other than failure to comply with said Massachusetts uniform minimum requirements or inability for geographical reasons to deliver milk of a satisfactory quality in the Massachusetts market. If, at any time, the board finds that a shortage of milk exists or is threatened anywhere within the commonwealth, temporary certificates of registration shall, without inspection, be issued for non-registered dairy farms in such numbers and in such areas as the board may deem wise, and any such certificate may be revoked by the board.

1932, 305, § 3.

**SECTION 16I. Penalty for Violation of Any Provision of Sections 16 to 16F, Inclusive.** Any person violating any provision of sections sixteen to sixteen F, inclusive, shall for the first offence be punished by a fine of not more than one hundred dollars; and for any subsequent offence shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than three months, or both.

1932, 305, § 3.

**SECTION 16J. Rules, etc. Governing Transportation, etc. of Milk.** The milk regulation board shall establish from time to time, and may alter, amend or repeal, rules and regulations governing the handling and sale of milk within the cities and towns of the commonwealth, including the transportation of milk from the farm to a milk plant, receiving station or pasteurization plant located within the commonwealth, and the transportation of milk from the farm to a milk plant, receiving station or pasteurization plant located outside the commonwealth, which milk is intended for shipment thereafter into the commonwealth. It shall also establish from time to time, and may alter, amend or repeal, rules and regulations governing all milk plants, receiving stations and pasteurization plants, wherever located, shipping milk into or within the commonwealth. Boards of health of cities and towns may establish from time to time, and may alter, amend or repeal, rules and regulations for the handling and sale of milk within said cities and towns; but such rules and regulations, unless consistent with rules and regula-



tions established by the milk regulation board and then in force, shall not take effect until they have been specifically approved by said board after hearing thereon.

1946, 542.

**SECTION 16K. Inspection of Milk Plants, Receiving Stations and Pasteurization Plants.** The department of agriculture shall inspect milk plants and receiving stations, wherever located, and pasteurization plants outside the commonwealth, shipping milk into or within the commonwealth and, if the same be found to be in compliance with all rules and regulations relating thereto, shall approve them and shall issue permits showing such approval. Every such permit shall expire on the thirtieth day of June following its issue, and may be suspended or revoked for the failure of the establishment to which it was issued to comply with rules and regulations relating thereto or for a violation, by such establishment, of any law relating to milk intended for sale within the commonwealth. Upon the application of any city or town, said department may delegate to the inspector of milk thereof its authority to inspect milk plants, receiving stations and pasteurization plants from which milk is shipped to such city or town, and submit inspection reports to said department, which reports shall form the basis of its issuance of such permits. A pasteurization plant located outside the commonwealth shall pay a fee of ten dollars for such a permit, but permits shall be issued to milk plants and receiving stations without cost. If any city or town to the milk inspector of which the power of inspection is delegated under any provision of this section fails to enforce rules and regulations established by the milk regulation board and then in force, said delegation of authority shall forthwith terminate.

1946, 542.

1947, 879.

**SECTION 16L. Penalty.** Whoever sells, exchanges or delivers, or has in his possession with intent to sell, exchange or deliver, milk shipped into the commonwealth from a milk plant, receiving station or pasteurization plant which has not been inspected and approved, or to which a permit has not been issued as provided in section sixteen K, shall be punished for a first offence by a fine of not less than one hundred nor more than five hundred dollars, for a second offence by a fine of not less than five hundred nor more than one thousand dollars, and for a subsequent offence by a fine of one thousand dollars and by imprisonment for not less than three months. This section shall not apply to any sale, exchange or delivery of milk brought into the commonwealth under a temporary permit issued under section sixteen H.

1946, 542.

**SECTION 17. Formula for extending Evaporated, etc., Milk to be placed on container.** Each container of evaporated, concentrated or condensed milk, and of evaporated, concentrated or condensed skimmed milk, sold or offered for sale or had by any person in possession or custody with intent to sell shall have plainly printed thereon or attached thereto on some firmly affixed tag or label, a formula in the

English language for extending such milk or skimmed milk with water. The formula for the extension of said evaporated, concentrated or condensed milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids or fat for milk, and shall be in the following form: "By adding \_\_\_\_\_ parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for milk". The formula for the extension of said evaporated, concentrated or condensed skimmed milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids for skimmed milk, and shall be in the following form: "By adding \_\_\_\_\_ parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for skimmed milk".

1911, 610, § 1.

1912, 474, § 1

G. L. 94, § 17.

**SECTION 17A. Combination of Certain Fats and Oils with Milk.** No person himself or by his servant or agent shall, for the purposes of sale or exchange, add any fat or oil other than milk fat to, or blend or compound the same with, any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, so that the resulting product is in imitation or semblance of milk, cream or skimmed milk whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, nor shall any person himself or by his servant or agent sell, exchange or deliver, or have in possession with intent to sell, exchange or deliver, or expose or offer for sale or exchange, any milk, cream or skimmed milk in any of the aforesaid forms to which has been so added or with which has been so blended or compounded any fat or oil other than milk fat. No person himself or by his servant or agent shall sell, exchange or deliver, or have in his possession with intent to sell, exchange or deliver, or expose, or offer for sale or exchange, as pure milk, any milk, cream, or skimmed milk in any of the aforesaid forms to which has been added or with which has been blended or compounded any milk fat. Whoever violates any provision of this section shall be punished by the penalties prescribed by section twenty-four.

G. L. 94, § 17A  
1923, 110.

1925, 120.

1933, 124.

**SECTION 18. Penalty for selling, etc., Certain Milk.** Whoever himself or by his servant or agent sells, exposes for sale, or has in his custody or possession with intent to sell, milk labelled as to its fat content which, upon analysis, is found to contain less milk fat than is stated upon the label, cap or tag, and whoever himself or by his servant or agent sells, exposes for sale or exchange, or delivers milk not wholly produced in the commonwealth in containers bearing, upon a label, cap, tag, or otherwise, words indicating that such milk was produced in the commonwealth, and whoever in any manner represents that milk not wholly produced in the commonwealth was wholly produced therein, shall be punished for the first offence by a fine of not more than fifty dollars, for the second offence by a fine of not less than fifty nor more than one hundred dollars, and for



a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars.

1917, 256, §§ 5, 6.

G. L. 94, § 18.

1933, 263, § 2.

#### SECTION 19. Sale, etc., of Adulterated, etc., Milk.

**Penalty.** No person himself or by his servant or agent shall sell, exchange or deliver or have in his custody or possession with intent so to do, or expose or offer for sale or exchange, any adulterated milk or milk to which water or any foreign substance has been added, or milk produced from cows which have been fed on the refuse of distilleries, or from sick or diseased cows, or, as pure milk, milk from which the cream or a part thereof has been removed, and no person shall sell, exchange or deliver or have in his custody or possession with intent so to do any skimmed milk not conforming to the Massachusetts standard, or any heated milk or skimmed milk not having the words "heated milk" or "skimmed milk", as the case may be, distinctly marked upon a light ground in plain black uncondensed gothic letters at least one inch in length in a conspicuous place upon each vessel, can or package from or in which such milk is or is intended to be sold, exchanged or delivered. If such vessel, can or package is of the capacity of not more than two quarts, said words may be placed upon a detachable label or tag attached thereto and said letters may be less than one inch in length, but not smaller than brevier gothic capital letters. Whoever violates any provision of this section shall be punished for the first offence by a fine of not less than fifty nor more than two hundred dollars, for the second offence by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than two nor more than three months.

Nothing in this section referring to heated milk shall be construed as applying to condensed milk or to milk which has been concentrated to one half its volume or less.

1856, 222.	R. L. 56, §§ 55, 58.	146 Mass. 38, 128,
1859, 206, §§ 4, 5.	1908, 570, §§ 1, 2.	512.
G. S. 49, § 151.	G. L. 94, § 19.	149 Mass. 9.
1860, 165, § 1.	9 Allen, 489.	153 Mass. 159.
1863, 140, § 2.	10 Allen, 199.	155 Mass. 442.
1864, 122, § 4.	11 Allen, 264.	159 Mass. 8.
1868, 263, § 1.	103 Mass. 444.	160 Mass. 538.
1869, 150, §§ 1, 2.	107 Mass. 194.	165 Mass. 38.
1870, 311.	130 Mass. 42.	205 Mass. 384.
1872, 319, §§ 1-3.	132 Mass. 11.	209 Mass. 30, 38.
1880, 209, §§ 3-5.	139 Mass. 193.	218 Mass. 24.
P. S. 57, §§ 5-7.	140 Mass. 483.	221 Mass. 68.
1885, 352, §§ 7, 8.	141 Mass. 129.	256 Mass. 542.
1886, 318, § 2.	143 Mass. 169, 172,	5 Op. A. G. 56.
1896, 398, § 1.	412.	Op. A. G. 1934.
1900, 300, § 1.	144 Mass. 357.	

For a discussion of the legal method of selling skimmed milk, see *Commonwealth v. Smith*, 149 Mass. 9.

#### SECTION 20. Sale, etc., of Milk below Standard. Pen-

**alty.** Whoever himself or by his servant or agent sells, exchanges or delivers, or has in his custody or possession with intent so to do, milk not conforming to the Massachusetts standard shall be punished for the first offence by a fine of not more than fifty dollars, for the second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars or by imprisonment for not more than three months; pro-

vided, that it shall not constitute a violation of this section for a producer of milk operating a dairy farm registered under section sixteen C to sell, or deliver in exchange or otherwise, to a dealer registered under section sixteen F natural cow's milk produced on such dairy farm and not conforming to the state standard, or for such a producer to have in his custody or possession any such milk with intent to sell, or deliver in exchange or otherwise, such milk to such a dealer, or for such a dealer to have in his custody or possession such milk, obtained as aforesaid from such a producer, with intent to blend such milk with other natural cow's milk for the purposes of making the blend conform to said standard.

1880, 209, § 4.

1910, 641, § 2.

205 Mass. 384.

P. S. 57, § 6.

G. L. 94, § 20.

210 Mass. 109.

1886, 318, § 2.

184 Mass. 209.

218 Mass. 24.

1900, 300, § 2.

1939, 212.

229 Mass. 14.

R. L. 56, § 57.

189 Mass. 342.

This statute is not class legislation and is constitutional. See 229 Mass. 14.

#### SECTION 21. Sale, etc., of Cream below Standard.

**Penalty.** No person, himself or by his agent, shall sell, expose for sale, or have in his custody or possession with intent to sell, cream not bearing, upon a label, cap or tag in legible bold-faced letters of not less than twelve-point plain gothic type, a statement of one of the following designations conforming to the legal standard for the particular grade or kind as set forth in section twelve: "Light Cream", "Medium Cream", "Heavy Cream", "Extra Heavy Cream", "Ungraded Cream", or "Cream" together with the percentage of milk fat contained therein which shall be not less than sixteen per cent. Whoever, himself or by his agent, sells, exposes for sale, or has in his custody or possession with intent to sell, cream not bearing a designation as hereinbefore required, or cream bearing such a designation and not conforming to the legal standard set forth in said section twelve for the grade or kind so designated, shall for the first offence be punished by a fine of not more than fifty dollars, for the second offence by a fine of not less than fifty nor more than one hundred dollars, and for a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars.

1907, 216.

G. L. 94, § 21.

1929, 267, § 2.

#### SECTION 22. Sale, etc., of Pasteurized Milk below Standard. Penalty.

Whoever sells, exchanges, delivers, advertises, represents or describes, or offers or exposes for sale or has in his possession with intent to sell as pasteurized milk, milk not pasteurized as defined in section one, shall for the first offence be punished by a fine of not less than ten dollars, and for a subsequent offence by a fine of not more than one hundred dollars.

G. L. 94, § 22.

1917, 259, §§ 2, 3.

#### SECTION 23. Sale, etc., of Condensed Milk regu-

**lated. Penalty.** Whoever sells, or offers for sale or exchange, condensed milk or condensed skimmed milk in hermetically sealed cans without having such cans distinctly labelled with the name of the manufacturer of such milk, the brand under which it is made and the contents of the can; and whoever sells condensed milk from cans or packages not



hermetically sealed without having such cans or packages branded or labelled with the name of the manufacturer, shall be punished as provided in section nineteen.

1896, 264.  
R. L. 56, § 59.

G. L. 94, § 28.

209 Mass. 32.

**SECTION 24. Penalty for Sale of Condensed, etc., Milk not labelled.** Whoever himself or by his servant or agent sells, exchanges or delivers, or has in his custody or possession with intent so to do, any container of evaporated, concentrated or condensed milk or skimmed milk not marked or labelled in compliance with section seventeen, shall for the first offence be punished by a fine of not more than one hundred dollars, for the second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of five hundred dollars or by imprisonment for not less than three nor more than six months.

1911, 610, § 2.

G. L. 94, § 24.

**SECTION 25. Testing of Utensils for determining Value of Milk, etc.** No bottle, pipette, or other measuring glass or utensils shall be used by any inspector of milk, or by any person in any milk inspection laboratory, in determining, by the Babcock or other centrifugal machine, the composition of milk or cream for the purposes of inspection, or by any person in any place in determining, by the Babcock or other centrifugal machine, the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, until such measuring glass or utensil has been tested for accuracy and verified by the director, or by his duly designated deputy. Each such bottle, pipette, or other measuring glass or utensil shall be submitted to the said director by the owner or user thereof, to be tested for accuracy, before the same is used for such purposes. As a fee for making the test, the owner or user shall pay to the said director a sum not exceeding five cents for each bottle, pipette, or other measuring glass or utensil tested. Each measuring glass or utensil so tested and verified or found inaccurate shall be marked accordingly by the director or by his said deputy. No such measuring glass or utensil so marked inaccurate shall be used in determining the composition or milk-fat content of milk or cream.

1901, 202, §§ 1, 2.  
R. L. 56, § 65.  
1912, 218, §§ 1, 10.

1918, 257, § 222  
1919, 5.  
1920, 2.

G. L. 94, § 25.  
1929, 279, § 1.  
250 Mass. 291.

A provision in a contract for the sale of milk and cream to be used as food, that they shall be of standard quality, and the implied condition that they shall be fit for food, are vital and go to the essence of the contract.

At the hearing, the defendant, to prove that the milk furnished him by the plaintiff was below standard, was not bound to have an analysis made and did not need to rely solely upon testimony of a certified inspector and the use of inspected testing machines or on samples taken as required under G. L., c. 94, §§ 25-27, 35.

There being evidence at the hearing tending to prove that a person could make the Babcock test without any particular knowledge of chemistry, and that any one could observe on the glass the result

indicated as to the butter fat content of milk, it was proper to admit testimony of the observations of witnesses who watched such tests. *Graustein v. Wyman*, 250 Mass. 290.

**SECTION 26. Inspection of Testing Machines.** Each Babcock or other centrifugal machine used by an inspector of milk or by a person in a milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by a person in any place for determining the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, shall be inspected at least once in each year by the director or by his inspector or deputy. The owner or user of any such centrifugal machine shall pay to the director as a fee for making each such annual inspection the actual cost thereof.

Each Babcock or other centrifugal machine used as aforesaid which, in the opinion of the director, his inspector or deputy is not in condition to give accurate results, may be condemned by him. No Babcock or other centrifugal machine so condemned shall be used for determining the composition or milk-fat content of milk or cream as aforesaid, unless such machine is corrected to the satisfaction of the director, his inspector or deputy, and approved by him.

1901, 202, § 3.  
R. L. 56, § 66.

1912, 218, §§ 2, 10.  
G. L. 94, § 26.

1929, 279, § 2.  
250 Mass. 291.

**SECTION 27. Certificate for Use of Babcock, etc., Machine required. Fee, etc.** No inspector of milk and no person in a milk inspection laboratory, shall manipulate the Babcock or other centrifugal machine to determine the composition of milk or cream for purposes of inspection, and no person in any place shall manipulate such a centrifugal machine to determine the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, without first obtaining a certificate from the director or his duly designated deputy that he is competent to do such work. The fee therefor shall be two dollars, and shall be paid to the director. If a holder of a certificate is notified by the director, or by his duly designated deputy, to correct his use of such centrifugal machine, the actual cost of an inspection to ascertain if such person has corrected his use of the said machine shall be paid by him or by his employer to the director.

1901, 202, § 4.  
R. L. 56, § 67.  
1909, 425.

1912, 218, §§ 3, 10.  
1919, 301, § 9.  
G. L. 94, § 27.

1929, 279, § 3.  
250 Mass. 291.

**SECTION 28. Certificates; Issue, Revocation, and Effect.** The director or his duly designated deputy may issue certificates of competency to persons desiring to manipulate the Babcock or other centrifugal machine who in his opinion are competent. The director or his deputy may make and enforce rules governing applications for such certificates and the granting thereof and may revoke the authority of any holder of a certificate who, in the opinion of the director, his deputy or inspector, is not correctly manipulating a machine as aforesaid, or is using dirty or otherwise unsatisfactory glassware or utensils in connection therewith. No holder of such



certificate whose authority has been so revoked shall thereafter manipulate any such machine for the purposes mentioned in the preceding section.

1901, 202, § 4.  
R. L. 56, § 67.

1909, 425.

1912, 218, §§ 3, 4, 10.

1919, 301, § 9.  
G. L. 94, § 28.

**SECTION 29. Testing and Inspection of Measuring Devices.** The director shall test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him under section twenty-five, and shall inspect or cause to be inspected at least once each year each Babcock or other centrifugal machine used by an inspector of milk, or by a person in any milk inspection laboratory, for purposes of inspection, or by any person in any place to determine the composition of milk-fat content of milk or cream as a basis for payment in buying or selling, and shall collect the fees or actual cost of tests and inspections under this and the four preceding sections. The director, his inspectors and deputies, may enter upon premises where tests of milk or cream are made in order to inspect any apparatus used in making such tests and to ascertain whether this and the four preceding sections are complied with.

1901, 202, § 5.  
R. L. 56, § 68.

1912, 218, §§ 5, 10.  
G. L. 94, § 29.

1929, 279, § 4.

**SECTION 29A. Director to prescribe Rules and Regulations, etc.** The director shall, after reasonable notice and a hearing, and with the approval of the governor and council, prescribe, and may from time to time in like manner modify or amend, rules and regulations to govern the methods and frequency of making tests for determining the composition or milk-fat content of milk or cream as a basis for payment in buying or selling. The director or his inspectors and deputies may, and the director of milk control, his inspectors and deputies shall, enter upon any premises where samples of milk or cream are taken, stored or tested as a basis for payment in buying or selling, in order to determine whether rules and regulations made hereunder are being observed.

1929, 279, § 5

1933, 253.

1946, 447, § 1.

**SECTION 30. Director to enforce Certain Sections. Certain Persons not subject to Prosecution, When.** The director shall enforce sections twenty-five to thirty-one, inclusive, and the rules and regulations made thereunder, and may prosecute or cause to be prosecuted any person violating any provision of said sections or of said rules and regulations, and the director of milk control or his designated assistant shall have concurrent authority with the director in prosecuting, or causing to be prosecuted, any person violating any provision of the rules and regulations established under section twenty-nine A. Sections twenty-five to thirty-one, inclusive, and the rules and regulations made thereunder, shall not affect any person using any centrifugal or other machine or test to determine the composition or milk-fat content of milk or cream if such use or test is made for the information of such person only, and not for purposes of inspection or as a basis for payment in buying or selling.

1912, 218, § 7.  
G. L. 94, § 30.

1929, 279, § 6.  
1932, 253.

1946, 447, § 2.  
6 Op. A. G. 257.

**SECTION 31. Penalty for interfering with Director, etc., and for violation of Sections 25-30, etc.** Whoever hinders or obstructs the director or the director of milk control, or any inspector or deputy of either said director or said director of milk control, in the discharge of any authority or duty imposed upon him by any provision of sections twenty-five to thirty, inclusive, whoever violates any provision of said sections, and whoever knowingly violates any provision of the rules and regulations made thereunder, shall be punished by a fine of not less than fifteen nor more than fifty dollars.

1901, 202, § 6.

R. L. 56, § 69.

1912, 218, §§ 6, 10.

G. L. 94, § 31.

1929, 279, § 7.

1933, 253.

1946, 447, § 3.

**SECTION 32. Milk Stations.** The board of health of a city, and of a town of ten thousand or more inhabitants, when it deems it advisable for the public health, may establish one or more stations for the distribution of milk, either free of charge in cases of necessity, or at such charge and under such conditions, rules and regulations as it establishes; but this section shall not permit any such board to engage in a general milk business.

1911, 278.

G. L. 94, § 32.

**SECTION 33. Inspectors of Milk and Collectors of Samples of Milk.** The board of health of a city shall, and the board of health or the selectmen acting as such board of a town may, appoint one or more inspectors of milk and one or more collectors of samples of milk, who shall have the powers, and perform the duties, conferred and imposed by law upon such inspectors and collectors, who shall be under the control of, and whose compensation shall be fixed by, the board appointing him or them; but no person whose business, in whole or in part, is the buying or selling of milk, or who is an officer, agent or employee of any person engaged in the sale thereof, shall be appointed as such inspector. Each person so appointed shall be sworn before entering upon his official duties and each such inspector shall publish a notice of his appointment for two successive weeks in a newspaper published in his town, if any; otherwise he shall post such notice in two or more public places therein. Such inspectors may be removed in cities in the manner provided in sections forty-three and forty-five of chapter thirty-one, and in towns at any time, by the appointing board.

1859, 206, §§ 1, 3.

G. S. 49, § 148.

1864, 122, §§ 1, 2.

F. S. 57, §§ 1, 2.

1884, 310, § 3.

1885, 352, § 4.

1886, 318, § 1.

R. L. 56, §§ 51, 52.

1909, 405, §§ 1, 2, 4.

1910, 114; 457.

G. L. 94, § 33.

1932, Op. A. G. 36.

**SECTION 34. Boards may designate One of their Members, etc.** Any board mentioned in the preceding section may designate and employ any member of the board or any agent or employee thereof, as a collector of samples of milk.

1909, 405, § 2.

G. L. 94, § 34.

**SECTION 35. Certain Powers, etc., of Inspectors and Collectors.** Each inspector of milk shall enforce in his town the laws as to the milk supply, and shall make complaint for a violation of any provision of sections nineteen to twenty-eight, inclusive, thirty-three, thirty-eight to forty, inclusive, and forty-



three, upon the information of any person laying before him satisfactory evidence whereby to sustain such complaint. He shall keep an office and shall record, in books kept for the purpose, the name and place of business of each person engaged in the sale of milk within such town. Each inspector of milk or collector of samples of milk may enter each place where milk is produced, stored or kept for sale and each vehicle used for its conveyance, and take therefrom samples for analysis. Upon request made when any sample is taken, he shall seal and deliver to the owner or person from whose possession the milk is taken a portion of each sample, and a receipt therefor shall be given to him. Each inspector of milk shall cause each sample to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the results thereof; but no evidence of the result of such analysis or test shall be received if such inspector or collector refuses or neglects to seal and deliver upon request as above provided, a portion of such sample to the owner or person from whose possession it is taken. This section shall not apply to milk in the course of interstate commerce.

1859, 206, §§ 1, 2.	1886, 318, §§ 1, 3.	144 Mass. 132.
G. S. 49, § 149.	R. L. 56, §§ 52, 64.	146 Mass. 38.
1860, 165, § 2.	1914, 744, § 6.	157 Mass. 460.
1864, 122, § 2.	1916, 134.	216 Mass. 126.
1868, 263, § 3.	G. L. 94, § 35.	250 Mass. 291.
1869, 150, § 3.	11 Allen, 264.	292 Mass. 381.
P. S. 57, §§ 2, 10.	182 Mass. 12.	6 Op. A. G. 257.
1884, 310, §§ 3, 4.	141 Mass. 129, 135	Op. A. G. (1927),
1885, 352, § 4.	143 Mass. 172, 418.	159.

The seizure of a sample of milk for examination is a reasonable method of inspection and does not require a warrant. *Commonwealth v. Carter*, 182 Mass. 12.

The sample must be sealed so that the container is airtight. *Commonwealth v. Lockhardt*, 144 Mass. 132.

If the inspector purchases milk for his analysis it is not necessary that he give the dealer a sample. *Commonwealth v. Coleman*, 157 Mass. 460.

This section does not prohibit a person who is not an inspector from making a complaint. *Commonwealth v. Tobias*, 141 Mass. 129.

**SECTION 36. Officer, Inspector, etc., to send Results of Analysis to Owner.** An officer of the department of public health or of the division of dairying and animal husbandry of the department of agriculture, an inspector of milk or collector of samples of milk, or other officer of the commonwealth or of a city or town who obtains a sample of milk for analysis shall, within ten days after obtaining the result of the analysis, send it to the person from whom the sample was taken or to the person responsible for the condition of such milk.

1899, 169.	1918, 268, § 1.	G. L. 94, § 36.
R. L. 56, § 68.	1919, 350, §§ 34, 37,	176 Mass. 292.
1914, 792, § 1.	96.	2 Op. A. G. 50.

This section is complied with if the percentage of milk solids or of fat is furnished. *Commonwealth v. McCance*, 176 Mass. 292.

**SECTION 37. Liability of Producer of Milk regulated.** No producer of milk shall be liable to prosecution for the reason that the milk produced by him is not of good standard quality unless such milk was

taken upon his premises or while in his possession or under his control by an inspector of milk, collector of samples of milk or agent of the division of dairying and animal husbandry of the department of agriculture or of the department of public health, and a sealed sample thereof was given to such producer upon demand, nor unless he shall fail to bring the milk produced by him to the legal standard for milk solids and milk fat within twenty days after written notice that it is below said standard has been sent to him by the officer taking said sample. At any time after such period of twenty days has elapsed, any such officer may take a second sample, and if it is found to be below the legal standard for milk solids and milk fat prosecution may follow.

1894, 425.	1918, 268, § 1.	165 Mass. 38.
R. L. 56, § 62.	1919, 350, §§ 34, 37,	229 Mass. 14.
1910, 641, § 1.	196.	277 Mass. 207.
1914, 792, § 1.	G. L. 94, § 37.	1935, Op. A. G. 89.

**SECTION 38. Penalty for Connivance by or Interference with Inspector, etc.** An inspector of milk or a collector of samples of milk who wilfully connives at or assists in a violation of sections nineteen, twenty, twenty-three, thirty-nine, forty and one hundred and forty-six, or any person who hinders, obstructs or interferes with such an inspector or collector in the performance of his duty, shall, except as provided in section sixty, be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment for not less than one nor more than two months.

1880, 209, § 6.	1884, 310, § 5.	G. L. 94, § 38.
P. S. 57, § 8.	R. L. 56, § 61.	141 Mass. 135

The authority to take, against the will of the owner, samples of milk cannot be delegated by an inspector to an agent or assistant. *Commonwealth v. Smith*, 141 Mass. 135.

**SECTION 39. Penalty for using Counterfeit Seal, etc.** Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector of milk, collector of samples of milk or other officer engaged in the inspection of milk, and whoever changes or tampers with a sample taken or sealed as provided in section thirty-five, shall be punished by a fine of one hundred dollars and by imprisonment for not less than three nor more than six months.

1886, 318, § 4.	R. L. 56, § 60.	7 Op. A. G. 164.
1896, 398, § 3.	G. L. 94, § 39.	8 Op. A. G. 145.

**SECTION 40. License to sell Milk, etc.** No person, except a producer selling milk to other than consumers, or selling not more than twenty quarts per day to consumers, shall deliver, exchange, expose for sale or sell or have in his custody or possession with intent so to do any milk, skimmed milk or cream in any town where an inspector of milk is appointed, without obtaining from such inspector a license which shall contain the number thereof, the name, place of business, residence, number of vehicles used by the licensee and the name of each driver or other person employed by him in carrying or selling milk. A license issued to a partnership or corporation shall be issued in the business name of said partnership or corporation and shall contain the names in full of the partners and managers of said partner-



ship or officers of said corporation. The license shall, for the purposes of sections forty to forty-two, inclusive, be conclusive evidence of ownership and shall not be sold, assigned or transferred. Whoever in such a town, engages in the business of selling milk, skimmed milk or cream from any vehicle shall display conspicuously on the outer side of each vehicle so used, his license number in figures not less than one and one half inches in height, and the name and place of business of the licensee in gothic letters not less than one and one half inches in height. No person, other than a producer selling milk or cream, or both, shall display the word "dairy" on any vehicle used by him or his authorized agent in the business of selling milk, skimmed milk or cream, unless such person has a license, in full force and effect, issued under section forty-eight A. Whoever in such town engages in the business of selling milk, skimmed milk or cream in a store, booth, stand or market place shall have his license conspicuously posted therein.

1859, 206, § 2.	R. L. 56, §§ 53, 54.	2 Allen, 157.
G. S. 49, § 161.	1909, 443, §§ 1, 5.	301 Mass. 409.
1864, 122, § 4.	G. L. 94, § 40.	7 Op. A. G. 166.
1880, 209, §§ 1, 2.	1 Allen, 598.	
P. S. 57, §§ 3, 4.	1941, 298.	

**SECTION 41. License may be revoked, etc.** An inspector of milk in any town, for the purposes mentioned in the preceding section and subject to the regulations established by the board of health of such town, may grant licenses to suitable persons, and shall receive for each license so granted a fee of fifty cents for the use of such town, and all license fees collected by him shall be paid over monthly to the town treasurer. Such licenses shall remain in force until June first following, unless previously suspended or revoked. An inspector of milk may declare any license granted by him suspended or forfeited upon a conviction of a licensee in any court of the commonwealth for violation of his license. If the applicant for a license fails to comply with any regulation of the board of health of the town where the application is made, a license may be refused until he has complied with such regulation; and a license granted under this section may be revoked at any time for failure to comply with any such regulation. If a license is so refused or revoked, an appeal may be taken to the department of public health, whose decision shall be final.

Every inspector of milk shall annually during the month of June, and at any other time upon special request of the commissioner of agriculture, furnish to him a list of dealers holding licenses for the sale of milk, skimmed milk or cream who purchase the same directly from producers in the commonwealth. If any inspector revokes such a license or reinstates such a license previously revoked, he shall, within ten days after the effective date of such revocation or reinstatement, notify said commissioner in writing to that effect.

1880, 209, §§ 1, 2.	1914, 792, § 1.	1929, 171.
P. S. 57, §§ 3, 4.	1919, 350, § 96.	Op. A. G. 1933.
R. L. 56, §§ 53, 54.	G. L. 94, § 41.	301 Mass. 409.
1909, 405, § 3; 443,		
§§ 3-5.		

**SECTION 42. Penalty for selling Milk, etc., without a License.** Whoever violates any provision of section forty shall be punished for the first offence by

a fine of not less than ten nor more than one hundred dollars, for the second offence by a fine of not less than fifty nor more than three hundred dollars, and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than one nor more than two months.

1859, 206, § 2.	1880, 209, § 1.	1909, 443, §§ 2, 5.
G. S. 49, § 151.	P. S. 57, §§ 3, 4.	G. L. 94, § 42.
1864, § 122, § 4.	R. L. 56, §§ 53, 54.	

**SECTION 42A. Licenses to operate Milk Plants, etc. Form of.** No person buying milk or cream from Massachusetts producers shall operate any milk plant or manufactory unless licensed to operate such plants and manufactories by the commissioner of agriculture, in this section and in sections forty-two B to forty-two K, inclusive, called the commissioner. Application for such license shall be made on or before January first in each year, for the license year beginning March first following, or at any time later than January first in any year for the balance of the license year after the date of issue of the license, which date shall be at least two months subsequent to the filing of the application. Such application shall be made upon a form prescribed by the commissioner, and shall contain a statement of such information as he may require to aid him in fixing the amount of the bond hereinafter required. Such statement shall be made under the penalties of perjury by the applicant, if an individual, and, if the applicant is a corporation, by its president and treasurer. A license shall not be issued unless the applicant shall execute and file at the time of filing the application, or within such further time as the commissioner may allow, a bond or other security satisfactory to the commissioner or shall be relieved therefrom as provided in section forty-two E. The commissioner, if satisfied with the financial responsibility and good faith of the applicant and with the bond or other security filed with him, shall issue to such applicant, upon payment of a fee of five dollars, a license entitling the applicant to operate milk plants and manufactories within the commonwealth for the license year or balance thereof, as the case may be.

1929, 171.	1935, 126.	1939, 421.
1938, 338.	1934, Op. A. G. 101.	

**SECTION 42B. Amount of Bond to be Fixed by Commissioner.** The bond required by the preceding section shall be payable to the commissioner and shall be in a sum fixed by him. Said sum shall be substantially equivalent to the total purchase price, as determined by the commissioner, of milk and cream purchased by the applicant from Massachusetts producers in the average period between payments by him to producers during the three months immediately preceding the date of application for a license, plus ten per cent of such total purchase price, or, if the applicant is not then operating any milk plant or manufactory, shall be substantially equivalent to the total purchase price, as estimated by the commissioner, of milk and cream to be so purchased in the estimated average period between payments by the applicant to producers during the period for which the license is to issue, plus ten per cent thereof. Such bond shall be in a form prescribed by the commissioner and shall be executed by the appli-



cant for a license and by a surety company authorized to do business in this commonwealth. It shall be upon the condition that the applicant, if granted a license, shall faithfully comply with the provisions of this chapter applicable to milk plants and manufacturing, shall not give any cause for the revocation of his license under section forty-two H and shall promptly pay all amounts due to producers for milk or cream sold by them to him during the license period for which the application is made. In lieu of such bond, the commissioner may accept a note of like amount payable to him, secured by a mortgage of real estate or personal property, or both, or by a deposit of cash or collateral with him. Any such mortgage, or note secured by cash or collateral, shall be upon the same condition as is herein provided for a bond. Any cash or collateral deposited under this section or under section forty-two D shall be deposited by the commissioner with the state treasurer who shall hold the same subject to section forty-two C.

1933, 338, § 2.

**SECTION 42C. Default in Conditions of Bond.** Upon default by the licensee in any of the conditions of his bond, mortgage or note secured by cash or collateral, if there is reason to believe that the licensee owes for purchases of milk or cream from producers, the commissioner shall give reasonable notice to all producers, whom he has reason to believe the licensee so owes, to file verified claims with him, and may, if he deems it advisable, fix a limit of time within which such claims shall be filed. The commissioner or his duly authorized assistant shall examine claims so filed and shall certify the amounts determined by him to be due thereon. Upon such default, he or his duly authorized assistant may bring an action upon any bond given under the two preceding sections may foreclose any mortgage given thereunder sell the mortgaged property, and may sell any collateral deposited with him thereunder. He may apply the sum recovered in any such action, or the proceeds of the sale of any such mortgaged property or deposited collateral or any cash deposited as security toward the payment of any claims of producers filed and certified under this section, and, if the amount thereof is more than sufficient to pay all such claims, shall pay any balance remaining after deducting all expenses, to the licensee or his legal representatives or surety or other person entitled thereto. In any action upon such bond the certificate of the commissioner in determining the amounts due shall be prima facie evidence of the facts therein stated.

1933, 338, § 2.

1935, 126.

**SECTION 42D. Licensee to File Statement of Assets, etc.** The licensee shall from time to time, when required by the commissioner, file with the commissioner a statement of his assets, liabilities and disbursements covering a period to be prescribed by the commissioner, containing the names of the producers from whom the licensee has purchased milk or cream and the amount due to each such producer. Such statement shall be made under the penalties of perjury by the applicant, if an individual, or, if the applicant is a corporation, by its president and

treasurer. If it appears from such statement, or from facts otherwise ascertained by the commissioner, that the security afforded by bond, mortgage or otherwise to producers selling milk or cream to such licensee does not adequately protect such producers, the commissioner may require such licensee to give, immediately or within such time as the commissioner may fix, additional security in such sum as he shall determine; but the total amount of security given by such licensee shall not thereby be made to exceed by more than twenty-five per cent the total purchase price of the maximum amount of milk and cream purchased by him from producers in any period in the preceding three months equal in length to the average period between payments by him to producers during said three months.

1933, 338, § 2.

1935, 126.

**SECTION 42E. Certain Producers Exempt from Filing Bond.** If an applicant for a license under section forty-two A is a producer of milk or cream, or both, and, in addition to that produced by him, purchases per day from other producers not more than one hundred quarts of milk or its equivalent in cream or in milk and cream, as determined by the commissioner, and if the commissioner is satisfied from an investigation of the financial condition of the applicant that he is solvent and possessed of sufficient assets to reasonably assure compensation to his present and future creditors, the commissioner may, by an order filed in the department of agriculture, relieve such applicant from filing a bond or other security.

1933, 338.

1935, 126.

**SECTION 42F. Records to be Kept.** Every operator of a milk plant or manufactory shall keep, in such form as the commissioner may prescribe, a record of all transactions concerning purchases of milk and of cream by him and shall furnish to each producer from whom he purchases milk by weight a daily statement, in such form as the commissioner may prescribe, of the weight of the milk received from the producer.

1933, 332.

1934, 181.

**SECTION 42G. Investigation of Financial Standing.** The commissioner or his duly authorized assistant may investigate the financial standing and past conduct of any person applying for or holding a license under section forty-two A, or any transaction by him in connection with the operation of a milk plant or manufactory, and in such investigation may examine the books of account or other documents or records of any applicant or licensee, and may take testimony therein under oath; but information relating to the general business of any applicant or licensee disclosed by such investigation and not relating to the purposes of sections forty-two A to forty-two J, inclusive, shall be treated by the commissioner as confidential.

1933, 333, § 2.

**SECTION 42H. Revocation, etc., of Licenses.** The commissioner may refuse to grant a license under section forty-two A, or may revoke such a license already granted, when he is satisfied of the existence of any of the following causes:

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CHAP. 94

(To be inserted in place of Section 45 on page 51.)

Section 45. No licensed milk dealer shall sell, or have in his possession with intent to sell, milk not contained in clean vessels on which, or on a cap, tag or label attached to which, appears his own name, or the name under which his business is conducted, and no other name; but this section shall not apply to a person using clean vessels on which appears the name of another person whose written per-

mission for such use has been obtained previously and registered in the office of the inspector of milk, in towns having such officer, and in other towns registered in the office of the town clerk upon payment of the fee provided by clause (76) of section thirty-four of chapter two hundred and sixty-two. Whoever violates this section shall be punished by a fine of ten dollars.

1948, 550, s. 9.





1. That a judgment has been obtained against the applicant or licensee by any producer of milk or cream and remains unsatisfied of record.

2. That there has been a failure to make a prompt settlements with producers from whom the applicant or licensee buys milk or cream, or to make the daily statements required by section forty-two F.

3. That there has been a continued course of dealing of such nature as to satisfy the commissioner of the inability or unwillingness of the applicant or licensee to conduct producers.

4. That there has been a continued failure by the applicant or licensee to keep records required by the commissioner or by law.

The commissioner may also revoke a license if the licensee has been duly required to give additional security under section forty-two D and has failed to do so.

1933, 333, § 2.

1934, 180, § 2.

1935, 126.

**SECTION 42I. Notice and Hearing before Revocation.** The commissioner, before determining to revoke any license issued under section forty-two A, shall give the licensee ten days' notice, by delivery in hand or by mail, of the time and place of a hearing to determine whether or not such license shall be revoked. At such hearing, the commissioner or his duly authorized assistant shall receive evidence and give the licensee an opportunity to be heard, and shall thereafter file an order either dismissing the proceeding or revoking such license.

1933, 333, § 2.

**SECTION 42J. Penalty for Operation Without License.** Whoever, without having a license under section forty-two A in full force and effect, operates a milk plant or a manufactory shall be punished by a fine of not more than fifty dollars for each consecutive period of more than twenty-four hours during which such unlicensed operation continues.

1933, 333, § 2.

**SECTION 42K. Appeal from Decision of Commissioner.** Any person aggrieved by a decision of the commissioner refusing to issue a license, or revoking a license shall have the right of appeal to a board consisting of the attorney general, the commissioner of public welfare and the commissioner of corporations and taxation, or assistants appointed by them, which board shall grant the person appealing and the commissioner a prompt hearing and sustain or reverse the decision of the commissioner. The determination of said board shall be final.

1933, 333, § 2.

**SECTION 43. Permits for Sale, etc., of Milk. Penalty.** No producer of or dealer in milk shall sell or deliver for sale, or have in his possession with intent to sell or deliver for sale, in any town any milk produced or dealt in by him without first obtaining from the board of health of such town a permit authorizing such sale or delivery. Said board of health may issue such permit after an inspection of the milk, and of the place where and the circumstances under which it is produced and handled, has been made by it or its authorized agent, but no producer shall be entitled to such a permit unless, as to the dairy farm

producing such milk, a certificate of registration has been issued by the director under section sixteen C and is in full force and effect; provided, that no such certificate shall be required for the production or sale of cream complying with the proper legal standard for cream established by section twelve or milk produced elsewhere than at a dairy farm, as defined in section sixteen.

Any permit so granted may contain such reasonable conditions as said board deems suitable for protecting the public health, and may be revoked for failure to comply with any of such conditions. After a permit has been revoked, it may be reissued in the same manner in which the original permit was issued. The board revoking or reissuing said permit shall immediately send notice thereof to the department of public health, which may enforce this provision. The department shall at once inform the board of health of any other town where, in its judgment, milk produced by the person to whom the permit relates would be likely to be sold or delivered for sale, and it shall also give notice of such revocation or reissue to any dealer in milk who in its judgment would be likely to purchase milk from such person; and after receipt of notice of revocation no dealer so notified shall sell or offer for sale such milk. If the board of health of any town refuses to issue a permit under this section or a permit previously issued is revoked by it, an appeal may be taken to the said department, whose decision shall be final. Violation of any provision of this section shall be punished by a fine of not more than one hundred dollars.

1914, 744, §§ 1-5;

792 § 1.

1915, 109, § 1.

1916, 223.

1919, 350, § 96.

G. L. 94, § 43.

1924, 122.

1932, 305, § 4, 5, 6.

1935, 88.

1936, 210

301 Mass. 409.

**SECTION 44. Charges for Inspection, etc., of Dairies, etc., prohibited. Penalty.** No fee for making any inspection or test of live stock, or any inspection of any dairy, barn or stable, under authority of law, for the purpose of protecting the milk supply of any town, shall be requested or accepted by any official or other person making or assisting to make such test or inspection. Whoever violates this section shall be punished by a fine of not more than fifty dollars.

1914, 744, § 1.

1915, 109.

1916, 223.

1917, 112.

G. L. 94, § 44.

**SECTION 45. Use of Certain Containers prohibited. Penalty.** No licensed milk dealer shall sell, or have in his possession with intent to sell, milk not contained in clean vessels on which, or on a cap, tag or label attached to which, appears his own name, or the name under which his business is conducted, and no other name; but this section shall not apply to a person using clean vessels on which appears the name of another person whose written permission for such use has been obtained previously and registered in the office of the inspector of milk, in towns having such officer, and in other towns registered in the office of the town clerk. Whoever violates this section shall be punished by a fine of ten dollars.

1906, 116, §§ 3, 4.

1908, 435, §§ 1, 2.

G. L. 94, § 45.

1935, 317.

8 Op. A. G. 145.



**SECTION 46. Containers, etc., to be Clean, etc.** Each vessel used as a container in the holding, handling or sale of milk intended for sale, and each appliance, implement, utensil, strainer or material used in milking and in the treatment or mixing of such milk shall be clean and free from foreign deposits.

1918, 761, §§ 1, 2.

G. L. 94, § 46.

**SECTION 47. Penalty for Use of Unclean Utensils, etc.** Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver, milk in vessels used as containers which are unclean upon the inside, or have foreign deposits therein, or milk obtained, treated or mixed by the use of appliances, implements, utensils, strainers or materials unclean or not free from foreign deposits, shall be punished by a fine of not more than fifty dollars.

1918, 761, §§ 1, 2.

G. L. 94, § 47.

**SECTION 48. Placing of Offal, etc., in Milk Cans, etc., prohibited. Penalty.** Whoever himself or by his servant or agent having custody of any vessel used as a container for milk intended for sale, places or causes or permits to be placed therein offal, swill, kerosene, vegetable matter or any article other than milk, skimmed milk, buttermilk, cream, or water or other agent used for cleansing said vessel, or sends, ships returns, or delivers, or causes or permits to be sent, shipped, returned or delivered to any producer of milk any vessel used as a container for milk and containing any offal, swill, kerosene, vegetable matter or other offensive material shall be punished by a fine of not more than ten dollars for each such vessel.

1906, 116, §§ 1, 2.

G. L. 94, § 48.

**SECTION 48A. Licensing of Establishments for the Pasteurization of Milk.** No person shall maintain an establishment for the pasteurization of milk without a license from the board of health of the town where the establishment is to be located. Any person desiring such a license may make written application to such board, stating the location of the establishment and such other information as may be required by rules and regulations for the enforcement of this section, which the department of public health is hereby authorized to make. Upon receipt of the application the said board shall cause an examination of the sanitary condition of the establishment to be made, and if it is found to be in a sanitary condition, and in accordance with the requirements of said rules and regulations, and otherwise properly equipped for the business of pasteurizing milk, said board, upon receipt of a license fee of ten dollars, shall issue a license authorizing the applicant to carry on such establishment for the pasteurization of milk for one year. If any such establishment licensed hereunder is deemed by the board issuing such license or by the department of public health to be operated or maintained in an unsanitary manner, or in violation of any of said rules and regulations, or not properly equipped for the business of pasteurizing milk, the board or the department shall close such establishment until such time as it has been put in a condition to conform with the

requirements of this section, and said board or department may also suspend the license if the required changes are not made within a reasonable time.

Whoever, himself or by his servant or agent, violates any provision of this section, or of the rules and regulations made hereunder, shall be punished for the first offence by a fine of not more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

This section shall not be construed to interfere with the powers and duties conferred or imposed upon boards of health of cities and towns by sections forty-one and forty-three.

1927, 259.

G. L. 94, § 48A.

**SECTION 48B. Requiring certain Institutions to use Milk produced within the Commonwealth.** No institution supported in whole or in part by funds of the commonwealth shall use for its daily needs milk produced elsewhere than within the commonwealth; provided, that if at any time the supply of milk so produced is insufficient for the needs of such institution, or does not conform to the required standard for such milk, such institution, while and to the extent only that such emergency exists, may use milk not produced within the commonwealth. This section shall not apply to cream or to certified milk.

1935, 259.

**SECTION 48C. Manufacture, etc., of Milk, Beverages, Regulated.** For the purposes of this section, a milk beverage is hereby defined as being a beverage consisting of milk, skimmed milk, to which has been added a sirup flavor consisting of wholesome ingredients. No person, himself or by his agent, shall sell, deliver or distribute, or have in his custody or possession with intent to sell, deliver or distribute, any milk beverage contained in a sealed bottle or other sealed container unless he is licensed under section forty by an inspector of milk, in any town wherein such an inspector is appointed, nor unless the milk, or skimmed milk, as the case may be, contained in the milk beverage conforms to the legal standard fixed therefor by section twelve, nor unless the container thereof bears a label, cap or tag on which is printed in legible type the words "Milk Beverage" or "Milk Beverage (Skimmed Milk)", according as the principal ingredient thereof is milk or skimmed milk. The board of health of any city or town may make reasonable regulations pertaining to the manufacture, sale and delivery or distribution therein of any milk beverage. Whoever violates any provision of this section, or of any regulation made under authority thereof, shall be punished by a fine of not less than ten nor more than fifty dollars.

1939, 317.

**SECTION 49. Oleomargarine to be marked.** Whoever himself or his agent sells, exposes for sale or has in his possession with intent to sell oleomargarine shall have the word "oleomargarine" or "butterine" so stamped, labelled or marked that said word cannot be easily defaced, upon the top, side and bottom of each tub, firkin, box or package containing



any of said oleomargarine. Whoever, himself or by his agent, exposes or offers for sale oleomargarine not in the original package shall attach thereto in a conspicuous place a label bearing the words "imitation butter", or the word "oleomargarine" or "butterine". In retail sales of oleomargarine not in the original package the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation butter", or the word "oleomargarine" or "butterine". Each such stamp, label or mark shall be in printed letters in a straight line of not less than twenty point plain gothic type. This section shall not apply to oleomargarine served with or as a part of a meal.

1878, 106, § 1.  
1881, 292, § 1.  
P. S. 56, § 17.  
1884, 810, § 1.  
1885, 352, § 1.  
1886, 317, § 1.

R. L. 56, § 36.  
G. L. 94, § 49.  
1948, 458, § 3.  
1928, 180, § 1.  
148 Mass. 172.

150 Mass. 327.  
157 Mass. 405, 407.  
286 Mass. 31.  
For penalty see § 51.  
2 Op. A. G. 332.

The cover, if marked, need not be kept on the tub. *Commonwealth v. Bean*, 148 Mass. 172.

The fact that the failure to mark is through inadvertence is no defense. *Commonwealth v. Gray*, 150 Mass. 327.

One who is storing oleomargarine with the intention of marking it properly is not guilty under this section. *Commonwealth v. Mills*, 157 Mass. 405; *Commonwealth v. McDonnell*, 157 Mass. 407.

**SECTION 50. Imitation Cheese to be marked.** Whoever himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute therefor, and either not made by the use of coagulating agents, or containing any fats, oils or grease not produced from the milk of cows, goats or sheep, shall have the words "imitation cheese" stamped, labelled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of each cheesecloth or band around the same and upon the top and side of each tub, firkin, box or package containing any of said article, substance or compound. In retail sales of said article, substance or compound not in the original packages, the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation cheese", in printed letters of plain uncondensed gothic type, not less than one half inch in length.

1881, 292, § 2.  
P. S. 56, § 18.  
1885, 352, § 2.

R. L. 56, § 37.  
G. L. 94, § 50.

For penalty see § 51.  
1937, 335, § 3.

**SECTION 51. Unlawful Sale, etc., of Oleomargarine and Imitation Cheese. Penalty.** Whoever sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter or cheese or as a substitute therefor, except as provided in the two preceding sections, and whoever with intent to deceive defaces, erases, cancels or removes any mark, stamp, brand, label or wrapper provided for in said

sections, or in any manner falsely labels, stamps or marks any box, tub, article or package marked, stamped or labelled as provided in said sections, or whoever himself or by his agent sells, exposes for sale, or has in his possession with intent to sell, oleomargarine, contained in any box, tub, article or package, marked or labelled with the word "dairy", or the word "creamery", or the name of any breed of dairy cattle, or whoever uses in any way in connection or association with an advertisement of margarine, oleomargarine or of any substance designed to be used as a substitute for butter, the name or representation of any dairy animal or breed of dairy cattle, or, with intent to deceive, uses in any way in such connection or association the word "butter", "creamery" or "dairy", or any other words or symbols commonly used only in advertisements of butter, shall for the first offence forfeit one hundred dollars, and for each subsequent offence two hundred dollars, to the use of the town where the offence was committed.

1878, 106, § 2.  
1880, 199  
1881, 292, § 3.  
P. S. 56, § 19.

1886, 317, §§ 2, 3.  
1894, 280, § 1.  
R. L. 56, § 33.

G. L. 94, § 51.  
1923, 84.  
2 Op. A. G. 332.

**SECTION 52. Conveyance of Oleomargarine for Sale regulated. Penalty.** Each person who conveys oleomargarine in a vehicle or otherwise, for the purpose of selling the same in any town, shall annually, in May, be licensed by an inspector of milk of such town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents to the use of the town. The inspector shall pay monthly to the town treasurer all such moneys collected by him. In towns where there is no inspector of milk, such license shall be issued by the town clerk. Any such license shall be issued only in the name of the owner of the vehicle, and for the purposes of sections forty-nine to sixty, inclusive, shall be conclusive evidence of ownership. No such license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of vehicles used, and the name and residence of each driver or other person engaging in carrying oleomargarine. Each licensee before engaging in the sale of oleomargarine shall cause his name, the number of his license and his place of business to be legibly placed, in gothic letters not less than one inch in length, in the English language, on each outer side of each vehicle used by him in the conveyance and sale thereof, and shall report to the said inspector or town clerk any change of driver or other person engaged in carrying oleomargarine occurring during the term of his license. Whoever without being licensed sells oleomargarine, or exposes or offers it for sale from vehicles or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall for the first offence be punished by a fine of not less than thirty nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

1886, 317, § 4.

R. L. 56, § 39.

G. L. 94, § 52.

This section applies only to sales from vehicles. *Commonwealth v. Lutton*, 157 Mass. 392.



**SECTION 53. Registration of Sellers of Oleomargarine. Penalty.** Each person before selling or offering for sale oleomargarine in a store, booth, stand or market place, shall register his name and proposed place of sale in the books of the inspector of milk of the town, or, if there is no such inspector, in the books of the town clerk, and annually in May thereafter shall so register, and shall pay fifty cents for each registering to the use of such town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars.

1886, 817, § 5.

R. L. 56, § 40.

G. L. 94, § 58.

**SECTION 54. Manufacture, etc., of Certain Imitations of Butter prohibited. Penalty.** Whoever himself or by his agent or servant renders, manufactures, sells, offers for sale, exposes for sale, takes orders for the future delivery of, has in his possession, keeps in storage, distributes, delivers, transfers or conveys with intent to sell within the commonwealth any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which is in imitation of yellow butter produced from unadulterated milk or cream from the same, shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year; but this section shall not prohibit the manufacture or sale of uncolored or colored oleomargarine.

1891, 58, §§ 1, 2.

G. L. 94, § 54.

163 Mass. 169.

1894, 280, § 6.

156 Mass. 236.

176 Mass. 132.

1896, 377, § 1.

158 Mass. 172.

155 U. S. 461.

R. L. 56, § 41.

162 Mass. 520.

1948, 453, § 1.

This section is constitutional and is not repealed by section 55. *Commonwealth v. Huntley*, 156 Mass. 236; *Plumley v. Massachusetts*, 155 U. S. 461; *Commonwealth v. Kelly*, 163, Mass. 169.

For matters of pleading and evidence, see 158 Mass. 172; 162 Mass. 520; 176 Mass. 132.

**SECTION 55. Fraud in Sale of Oleomargarine. Penalty.** Whoever exposes for sale oleomargarine which is not marked and distinguished by all the marks, words and stamps required by section forty-nine, or whoever does not have upon the exposed contents of each opened tub, package or parcel of oleomargarine a conspicuous placard with the word "oleomargarine" printed thereon in plain uncondensed gothic letters, not less than one inch long, or whoever himself or by his agent sells or offers for sale any oleomargarine to any person who asks or sends for butter, shall be punished by a fine of one hundred dollars.

1891, 412, §§ 1, 2.

G. L. 94, § 55.

155 U. S. 461.

1894, 280, §§ 2, 3.

1928, 130, § 2.

For disposition of fine see § 63.

R. L. 56, §§ 43, 44.

156 Mass. 236.

**SECTION 56. Sale of Oleomargarine regulated. Placard required in Store. Penalty.** Whoever sells oleomargarine from any dwelling, store, office or public mart which does not have conspicuously posted thereon a placard or sign approved by the division of dairying and animal husbandry of the department of agriculture, bearing in letters not less than four inches in length, "oleomargarine sold here" or "butterine sold here", shall be punished

by a fine of one hundred dollars for the first offence and one hundred dollars for each day's neglect after conviction for the first offence.

1891, 412, § 3.

R. L. 56, § 45.

1918, 268, § 1.

1919, 350, §§ 34, 37.

G. L. 94, § 56.

7 Op. A. G. 182.

For disposition of fine see § 63.

**SECTION 57. Same Subject. Placard required on Vehicles. Penalty.** Whoever himself or by his agent peddles, sells, solicits orders for the future delivery of or delivers oleomargarine from any vehicle not having on both sides of said vehicle a placard bearing the words "licensed to sell oleomargarine" in uncondensed gothic letters not less than three inches in length, shall be punished by a fine of one hundred dollars or by imprisonment for one month.

1891, 412, § 4.

1894, 280, § 4.

R. L. 56, § 46.

G. L. 94, § 57.

158 Mass. 218.

162 Mass. 506.

For disposition of fine see § 63.

The section is not complied with by placing the placards on the sides of the wagon, *inside the covering of the wagon*. *Commonwealth v. Crane*, 158 Mass. 218.

The section applies to all kinds of oleomargarine. *Commonwealth v. Crane* 162 Mass. 506.

**SECTION 58. Serving Oleomargarine at Hotels, etc., regulated. Penalty.** Whoever furnishes oleomargarine or causes it to be furnished, instead of butter, in any hotel, restaurant or boarding house or at any lunch counter, to a guest or patron thereof, without notifying said guest or patron by means of signs or printed notices on menus, such printing to be of not less than twenty-four point type, in the English language, that the substance so furnished is not butter shall be punished by a fine of not less than ten nor more than fifty dollars.

1891, 412, § 5.

1896, 377, § 2.

R. L. 56, § 47.

G. L. 94, § 58.

159 Mass. 113.

1948, 453, § 2.

For disposition of fine see § 63.

Actual notice is necessary. If the notice is upon a sign or bill of fare which the patron does not read, the notice is not given. *Commonwealth v. Stewart* 159 Mass. 113.

**SECTION 59. Sale of Process Butter or Renovated Butter regulated. Penalty.** Whoever himself or by his agent sells, exposes for sale or has in his custody or possession with intent to sell, an article or compound commonly known as process butter, and produced by taking original packing stock or other butter, or both, melting the same, so that the butter fat can be drawn off, mixing the fat with skimmed milk, or milk, cream, or other milk product and re-churning the mixture, or by any similar process, shall have "renovated butter" conspicuously stamped, labelled or marked so that the words cannot easily be defaced, in a straight line in printed letters not less than one half inch in length, of plain, uncondensed gothic type, upon the top, side and bottom of each tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound which is not in the original package shall himself or by his agent attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing conspicuously upon the outside thereof the words "renovated but-

INSPECTION AND SALE OF FOOD, DRUGS  
AND VARIOUS ARTICLES.

CHAP. 94.

(To be inserted in place of Section 52, on page 53.)

Section 52. Conveyance of Oleomargarine for Sale regulated. Penalty. Each person who conveys oleomargarine in a vehicle or otherwise, for the purpose of selling the same in any town, shall annually in May be licensed by an inspector of milk of such town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents for the use of the town. The inspector shall pay monthly to the town treasurer all such moneys collected by him. In towns where there is no inspector of milk, such license shall be issued by the town clerk. Any such license shall be issued only in the name of the owner of the vehicle, and for the purposes of sections forty-nine to sixty, inclusive, shall be conclusive evidence of ownership. No such license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of vehicles used, and the name and residence of

each driver or other person engaging in carrying oleomargarine. Each licensee before engaging in the sale of oleomargarine shall cause his name, the number of his license and his place of business to be legibly placed, in gothic letters not less than one inch in length, in the English language, on each outer side of each vehicle used by him in the conveyance and sale thereof, and shall report to the said inspector or town clerk any change of driver or other person engaged in carrying oleomargarine occurring during the term of his license. Whoever without being licensed sells oleomargarine, or exposes or offers it for sale from vehicles or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall for the first offence be punished by a fine of not less than thirty nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

1886, 317, s 4.

R. L. 56, s 39.

G. L. 94, s 52.

1949, 297, s 2.





ter" in printed letters not less than one half inch in length, in a straight line of plain, uncondensed gothic type. Whoever violates any provision of this section shall for the first offence be punished by a fine of not less than twenty-five nor more than one hundred dollars, for the second offence by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offence by a fine of five hundred dollars or by imprisonment for not less than two nor more than three months.

1899, 840.  
R. L. 56, § 48.

1903, 361.  
G. L. 94, § 59.

2 Op. A. G. 332.

**SECTION 60. Complaints for violation of sections relative to Oleomargarine, Butter, Cheese, etc.** Each inspector of milk shall institute complaints for the violation of any provision of sections forty-nine to fifty-eight, inclusive, sixty-two or sixty-five G to sixty-five S, inclusive, except subsections (c) to (e), inclusive, of section sixty-five P, on the information of any person who lays before him satisfactory evidence to sustain such complaint, if he has reasonable cause to believe that said provision has been violated. He may enter each place where butter, cheese or imitations thereof, or frozen desserts or ice cream mix as defined in section sixty-five G, are stored or kept for sale, and shall take samples of suspected butter, cheese or imitations thereof, or frozen desserts or ice cream mix, and cause them to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the result of such analysis or test. Before commencing the analysis of any sample in any proceeding for violation of any provision of sections forty-nine to fifty-one, inclusive, and sixty-five G to sixty-five S, inclusive, the analyst shall reserve and seal a portion of the sample, and, upon complaint made against the person from whom such sample was taken, such reserved portion of the sample alleged to be adulterated shall, upon application, be delivered to such person or to his attorney. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the expense of such prosecution.

1881, 292, § 4.  
P. S. 56, § 20.  
1884, 310, §§ 2, 4.  
1891, 58, § 3.  
R. L. 56, § 42.

1910, 394.  
1913, 743, § 3.  
G. L. 94, § 60.  
132 Mass. 12.

176 Mass. 132.  
177 Mass. 67.  
6 Op. A. G. 257.  
1934, 378, § 2.

In a complaint under section 54 the reserving of a portion of the sample is not required. *Commonwealth v. Ryberg*, 177 Mass. 67.

**SECTION 61. Wrappers of Certain Lard to be marked. Penalty.** No person shall sell, deliver, prepare, put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient except the pure fat of swine, in any tierce, bucket, pail or other vessel or wrapper, or under any label bearing the words "pure", "refined", "family", or either of them, alone or in combination with other words; but each vessel, wrapper or label in or under which such article is prepared, put up or exposed for sale, sold or delivered by him shall bear on the top or outer side thereof, in letters not less than one half inch in length and plainly exposed to view, the words "compound lard". Whoever violates any provision of this section shall for the first offence be

punished by a fine of not more than fifty dollars and for a subsequent offence by a fine of not more than one hundred dollars.

1887, 449.

R. L. 56, § 49.

G. L. 94, § 61.

**SECTION 61A. Sale of Cheddar or American Cheese.** The kind of cheese known as Cheddar cheese, American cheese or American Cheddar cheese, may be sold under the designation "cheese", without qualification, and, unless its definition and standard is otherwise fixed by the laws of the commonwealth or by the department of public health under section one hundred and ninety-two, shall comply with the definitions and standards promulgated by the Food and Drug Administration of the United States Department of Agriculture. Cheese made from the milk of sheep or goats shall be labelled as being so made, unless it bears a name designated by the laws of the commonwealth or by said department under said section one hundred and ninety-two, or, if not bearing a name as aforesaid, by the definitions and standards of said Food and Drug Administration.

1937, 385, § 4

**SECTION 62. Penalty for interfering with Inspector, etc.** Whoever hinders, obstructs or in any way interferes with an inspector of milk or collector of samples of milk in the performance of his duties under section sixty, shall for the first offence be punished by a fine of fifty dollars and for a subsequent offence by a fine of one hundred dollars.

1884, 310, § 2.  
1891, 58, § 3.

R. L. 56, § 42.  
1910, 394.

1913, 743, § 3.  
G. L. 94, § 62.

**SECTION 63. Disposition of Fines.** All fines recovered under section fifty-five to fifty-eight, inclusive, shall be paid to the commonwealth.

1891, 412, § 12.

R. L. 56, § 50.

G. L. 94, § 63.

#### FROZEN DESSERTS AND ICE CREAM MIX.

**SECTION 65G. Definitions.** For the purposes of sections sixty-five G to sixty-five S, inclusive, the following words and phrases shall have the following meanings:—

"Department", the department of public health.

"Frozen custard", includes French ice cream, French custard ice cream, ice custard, parfaits and similar frozen products, and is defined to be a clean, wholesome product made from a combination of eggs, milk or cream or other milk product, water and sugar with harmless flavoring and harmless coloring and with or without added stabilizer, in the manufacture of which product freezing has been effected with or without agitation of the ingredients. It shall contain not more than one half of one per centum by weight of stabilizer, not less than ten per centum by weight of milk fat, and not less than eighteen and five tenths per centum by weight of total milk solids. Each ninety pounds of frozen custard shall contain not less than sixty clean, wholesome egg yolks, or one and five tenths pounds of wholesome, dry egg yolk containing not more than seven per centum of moisture, or three pounds of wholesome, frozen egg yolk containing not more than fifty-five per centum of moisture, or an amount of egg yolk in any other form equivalent in food



solids to sixty clean, wholesome egg yolks; and any lesser amount of frozen custard shall contain such ingredients in the same proportions. In no case shall any frozen custard contain less than one and six tenths of total food solids per gallons.

"Frozen desserts", ice cream, frozen custard, ice milk, milk sherbet, and water ice or ice sherbet.

see 56 A — "Ice cream", a pure, clean, frozen product made from a combination of milk or cream or other milk product, with or without eggs, but with water, sugar, and harmless flavoring and harmless coloring, and with or without added stabilizer, in the manufacture of which product freezing has been effected with or without agitation of the ingredients. It shall contain not more than one half of one per centum by weight of stabilizer, not less than ten per centum by weight of milk fat, and not less than eighteen and five tenths per centum by weight of total milk solids; provided, that when fruit, fruit juices, nuts, coffee, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, it shall contain not less than ten per centum by weight of milk fat and not less than eighteen and five tenths per centum by weight of total milk solids, except for such reduction in milk fat and in total milk solids as is due solely to the addition of such flavoring; but in no such case shall it contain less than eight per centum by weight of milk fat nor less than sixteen and five tenths per centum by weight of total milk solids, nor in any case less than one and six tenths pounds of total food solids per gallon.

"Ice cream mix", a pure, clean product made from a combination of milk or cream or other milk product, with or without eggs, but with water and sugar, and with or without harmless flavoring, harmless coloring and added stabilizer. It shall contain not more than one half of one per centum by weight of stabilizer, not less than ten per centum by weight of milk fat and not less than eighteen and five tenths per centum by weight of total milk solids; provided, that, when cocoa or chocolate is used for the purpose of flavoring, the percentage of milk fat and total milk solids may be reduced solely as a result of the addition of such flavoring; but in no case shall it contain less than eight per centum by weight of milk fat nor less than sixteen and five tenths per centum by weight of total milk solids.

"Ice milk", a pure, clean frozen product made from a combination of milk or cream or other milk product, with or without eggs, but with water and sugar, and with harmless flavoring and harmless coloring, and with or without added stabilizer, in the manufacture of which product freezing has been effected with or without agitation of the ingredients. It shall contain not more than one half of one per centum by weight of stabilizer, not less than three and thirty-five one hundredths per centum nor more than ten per centum by weight of milk fat, and not less than fourteen per centum by weight of total milk solids, and shall in no case contain less than one and three tenths pounds of total food solids per gallon.

"Imitation frozen dessert", any frozen substance, mixture or compound, regardless of the name under which it is sold or exchanged, or offered or exposed

for sale or exchange, or advertised, which is made in imitation or semblance of any frozen dessert, or is prepared or frozen in the manner in which any frozen dessert is customarily prepared or frozen, and which is not ice cream, frozen custard, ice milk, milk sherbet, or water ice or ice sherbet, as defined herein.

"Milk product", includes pure, clean and wholesome milk fat, butter, evaporated milk, skimmed milk, condensed milk, sweetened condensed milk, condensed skimmed milk, sweetened condensed skimmed milk, dried milk and dried skimmed milk.

"Milk sherbet", a pure, clean, frozen product made from a combination of milk and cream or other milk product, and sugar, with or without water, but with harmless fruit or fruit juice flavoring and harmless coloring, and with not less than thirty-five one hundredths of one per centum of fruit or lactic acid, as determined by titrating with standard alkali and the result expressed as lactic acid, and with or without added stabilizer, in the manufacture of which product freezing has been effected with or without agitation of the ingredients. It shall contain not less than four per centum by weight of milk solids.

"Stabilizer", pure gelatine or vegetable gums.

"Water ice or ice sherbet", such pure, clean, frozen water ices, with or without sugar or harmless flavoring, as are not hereinbefore defined. They shall contain no milk solids.

1827, 278, § 1.  
1931, 93, § 2.

1934, 373, § 1.

1940 Op. A. G. 27.

**SECTION 65H. Application for licenses to manufacture frozen desserts, etc.** Every person manufacturing within the commonwealth frozen desserts and ice cream mix, or either, in this paragraph called products, shall, during the month of February in each year, file with the board of health of each town in which he manufactures, or proposes to manufacture, such products, upon a form prescribed and furnished by the department, an application for a license to manufacture such products in such town, herein and in the eleven following sections called a license, for the year commencing with the following March first, and with the application shall tender the proper fee. Such application shall state that the applicant will manufacture such products only from pure and wholesome ingredients and only under sanitary conditions; shall show the location of each plant in such town at which such products are to be manufactured; and the name of the brand or brands, and the trade or corporation name or names, if any, under which the same are to be sold.

Every person manufacturing frozen desserts and ice cream mix, or either, for the use of his patrons, guests or servants shall, except as hereinafter otherwise provided, obtain a license therefor. The provisions of the preceding paragraph shall, so far as applicable, apply to licenses issued hereunder.

If the owner of a plant for the manufacture of frozen desserts and or ice cream mix located without the commonwealth desires to sell his product within the commonwealth he shall apply to the department for a permit to sell within the commonwealth frozen desserts and or ice cream mix, herein and in the eleven following sections called a permit,

(To be inserted in place of the paragraph entitled "Stabilizer", on Page 56, Section 65G. .

"Stabilizer", any non-toxic nutritive stabilizing or emulsifying agent approved by the department and used singly or in combination.

(To be inserted at the end of Section 65G, on Page 56.

"Sugar", sucrose, dextrose, invert sugar (syrup or paste), corn syrup, corn syrup solids, maple syrup, maple sugar, honey and brown sugar.





(See page 56, Section 65G of Chapter 94 is hereby amended by striking out the paragraph defining "Ice cream" and inserting in place thereof the following:-)

"Ice cream", a pure, clean frozen product made from a combination of milk or cream or other milk product, with or without eggs, but with water, sugar, and harmless flavoring and harmless coloring, and with or without added stabilizer, in the manufacture of which product freezing has been effected with or without agitation of the ingredients. It shall contain not more than one half of one per centum by weight of stabilizer, not less than ten per centum by weight of milk fat, and not less than eighteen and five tenths per centum by weight of total milk solids and shall not weigh less than four and five tenths pounds net per gallon; provided, that when fruit,

fruit juices, nuts, coffee, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, it shall contain not less than ten per centum by weight of milk fat and not less than eighteen and five tenths per centum by weight of total milk solids, except for such reduction in milk fat and in total milk solids as is due solely to the addition of such flavoring; but in no such case shall it contain less than eight per centum by weight of milk fat nor less than sixteen and five tenths per centum by weight of total milk solids, and shall not weigh less than four and five tenths pounds net per gallon, nor in any case less than one and six tenths pounds of total food solids per gallon.

1950, 236





and with the application shall tender the proper fee. The department may issue to any suitable applicant therefor such a permit if it is satisfied after inspection that the plant named in the application is maintained in accordance with the standards of sanitation prescribed by its rules and regulations. Such permit shall be in lieu of a license referred to in the first paragraph; shall be subject to all sanitary requirements provided for such a license; shall apply only to one such plant; shall be valid throughout the commonwealth; and may be suspended or revoked by the department as provided by section sixty-five J. The department may inspect any plant of an applicant covered by his or its application for a permit. No part of any such fee shall be returned to an applicant whether or not the permit is granted.

Nothing in sections sixty-five G to sixty-five S, inclusive, shall be deemed to require any person manufacturing frozen desserts in his home for the sole use of his family, servants and guests, or any person owning or operating a boarding house or hospital and manufacturing frozen desserts for the sole use of his family and/or his or its patrons, guests, patients or servants, or any farmer selling frozen desserts manufactured by him, whereof the milk or cream or other milk product is the product only of his own cows, to obtain any license or permit therefor.

1934, 373, § 1.

Op. A. G. 1934.

**SECTION 65I. Granting of License, Inspection of Premises of Licensee, etc.** The local board of health, if satisfied after inspection that the plant referred to in an application for a license or a permit, as the case may be, is maintained in accordance with the standards of sanitation prescribed in the rules and regulations promulgated by the department, may grant to any suitable applicant therefor a license, or may certify to the department an application for a permit when said local board has been requested by the department to make such an inspection. No license or permit shall be issued if any statement in the application is false or misleading or if the brand name or any label or advertisement of the frozen dessert or of the ice cream mix referred to in the application gives a false indication of its origin, character, composition or place of manufacture, or is otherwise false or misleading in any particular. No person shall engage within the commonwealth in the business of manufacturing frozen desserts and/or ice cream mix without a license so to do from the board of health of the town where his plant is or is to be located, and no person engaged in the business of manufacturing frozen desserts and/or ice cream mix without the commonwealth shall sell any such product within the commonwealth without a permit from the department.

1934, 373, § 1.

1934, Op. A. G. 99.

**SECTION 65J. Revocation of License, etc.** Any license may be revoked by the local board of health which issued it, and any permit may be revoked by the department, after notice to the holder of the license or permit by mail or otherwise and opportunity to be heard, if it appears that any statement in reliance upon which such license or permit, as the

case may be, was issued was false or misleading, or for violation of any of the provisions of the license or permit or of said sections sixty-five G to sixty-five S, inclusive.

Any license may be suspended by the local board of health which issued it, and any license or permit may be suspended by the department, after similar notice and hearing and for any of the foregoing reasons, until the holder of such license or permit complies with the conditions prescribed by the department for its reinstatement.

1934, 373, § 1.

1937, 341, § 1.

**SECTION 65K. Appeal from Decision.** Any person aggrieved by a decision of a local board of health or of the department in refusing to grant or to reinstate, or in revoking or suspending, a license or permit, as the case may be, may, within fifteen days after the entry of such decision, bring a petition in the supreme judicial court for a writ of certiorari to correct errors of law therein, and the provisions of section four of chapter two hundred and forty-nine shall, except as herein provided, apply to said petition. No costs shall be allowed against the local board of health or the department, as the case may be, unless the court finds that it acted with gross negligence or in bad faith.

1934, 373, § 1.

**SECTION 65L. Certain Sales and Exchanges Prohibited.** (a) No person shall sell or exchange, deliver, advertise, or offer or expose for sale or exchange, or attempt to deliver, or have in his possession with intent so to do, any frozen dessert or ice cream mix unless the manufacturer thereof is the holder of a license or permit then in full force.

(b) No person shall sell or exchange, offer for sale or exchange or advertise for sale, any frozen dessert and/or ice cream mix, if the brand name of the frozen dessert or ice cream mix or the label upon it or the advertising accompanying it shall give a false indication of its origin, character, composition or place of manufacture, or is otherwise false or misleading in any particular.

(c) No person shall sell or offer or expose for sale ice milk, unless contained in a package, or enclosed in a wrapper, upon which shall be conspicuously printed in the English language the words "Ice Milk" in letters not smaller than eight point type and which letters shall be larger than any other lettering upon the package or wrapper. No person shall offer for sale, or sell, any ice milk if the purchaser has requested ice cream.

(d) No person shall sell or exchange, deliver, advertise, or offer or expose for sale or exchange, or attempt to deliver, or have in his possession with intent so to do, any imitation frozen dessert.

(e) No person shall sell or exchange, deliver, advertise, or offer or expose for sale or exchange, or attempt to deliver, or have in his possession with intent so to do, any frozen dessert and/or ice cream mix if it contains any paraffin, oils or fats, other than milk fats, except such fats or oils as are naturally contained in the flavors lawfully used.

(f) No person shall sell or exchange, or deliver or offer or expose for sale or exchange, or attempt to



deliver, or have in his custody or possession with intent so to do, frozen dessert and/or ice cream mix in a package, wrapper or other covering which does not legibly bear the name of the manufacturer of said frozen dessert and/or ice cream mix and/or a brand, trade or corporation name, set forth in the manufacturer's application for a license or permit, or subsequently recorded with the local board of health or the department issuing the same.

This and the following seven sections shall not apply to any frozen dessert and/or ice cream mix in the course of interstate commerce.

1934, 373, § 1.

1937, 341, § 2.

**SECTION 65M. Milk, etc., to be Pasteurized.** All milk, cream and milk products used in the manufacture of ice cream, frozen custard, ice milk or milk sherbet, or the entire mix with or without flavor or color, shall be pasteurized in accordance with rules and regulations of the department, if so required by regulations made under authority of law by the board of health of the town wherein such frozen dessert or ice cream mix is to be sold.

1934, 373, § 1.

**SECTION 65N. Premises to be Kept Clean, etc.** No person shall sell or exchange, or offer or expose for sale or exchange, or deliver, or attempt to deliver, or have in possession with intent so to do, frozen desserts or ice cream mix which have been manufactured in unclean, unsanitary or unhealthful premises or in an unclean, unsanitary or unhealthful manner, nor shall any person manufacture, or sell or exchange, or offer or expose for sale or exchange, or deliver, or attempt to deliver, or have in possession with intent so to do, frozen desserts or ice cream mix in any unclean, unsanitary or unhealthful premises or in any unclean, unsanitary or unhealthful manner.

1934, 373, § 1.

**SECTION 65O. Frozen Desserts, Adulteration of.** Frozen desserts and/or ice cream mix shall be deemed to be adulterated:

*First.* If containing saccharin or any preservative, mineral or other substance or compound deleterious to health; provided, that this clause shall not be construed to prohibit the use of harmless coloring matter when not used for fraudulent purposes; or

*Second.* If made in whole or in part from, or containing frozen desserts and/or ice cream mix for any reason unfit for food.

No person shall manufacture, sell or exchange, or offer or expose for sale or exchange, or deliver, or attempt to deliver, or have in his possession with intent so to do, any frozen dessert or ice cream mix not conforming to the definitions contained in section sixty-five G, or manufactured, sold, exchanged and/or delivered in violation of any provision of section sixty-five N, or adulterated within the meaning of this section.

1927, 278, § 1.

1934, 373, § 1.

**SECTION 65P. Containers. False Labelling.** (a) No person shall sell or exchange, or offer or expose for sale or exchange, or deliver or attempt to deliver, frozen desserts in any container which is falsely

labelled as to the name of the manufacturer or place of manufacture, or in any other respect.

(b) No person shall misrepresent in any manner the name of the manufacturer or the place of manufacture of frozen desserts.

(c) No person shall use or cause or permit to be used, for the purpose of preserving or holding frozen desserts, any cabinet, can, container or other equipment owned in whole or in part by any other person, without the written consent of such owner.

(d) No person shall place any frozen desserts of one manufacturer in the cabinet, can, container or other equipment belonging in whole or in part to another manufacturer.

(e) No person, other than the owner or a person thereto authorized by him, shall remove, erase, obliterate, cover or conceal the owner's name or any distinguishing mark, or device which may appear or be placed on any such cabinet, can, container or other equipment.

(f) Except where otherwise provided in sections sixty-five G to sixty-five S, inclusive, the provisions of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall apply to frozen desserts and to ice cream mix, and to any materials intended for use, or used, in the manufacture thereof.

1927, 278, § 1.  
1931, 98, § 3.

1934, 373, § 1.

1937, 441, § 3.

**SECTION 65Q. Enforcement of Certain Sections.** The department, and the local boards of health within their respective jurisdictions, shall enforce sections sixty-five G to sixty-five S, inclusive. The department shall from time to time, after inquiry and public hearing, adopt, amend and promulgate rules and regulations to supplement and give full effect to the provisions of said sections. Such rules and regulations shall, in addition to any other subjects, establish bacterial standards for frozen desserts and/or ice cream mix, hereinafter referred to as products, sanitary regulations pertaining to the manufacture and distribution of such products, including the sanitary condition of premises and buildings wherein such products are manufactured, and the sanitary condition of containers in which such products are held or shipped. Such rules and regulations shall be filed at the office of the department and of each of the boards of health within the commonwealth, shall be open for public inspection, and shall have the force of law.

Local boards of health may make rules and regulations relative to such products not inconsistent with rules or regulations of the department, or with law.

1927, 278, § 1.

1937, 341, § 3.

**SECTION 65R. Penalty for Violation.** Whoever violates any provision of sections sixty-five G to sixty-five Q, inclusive, or of any rule or regulation made under authority thereof, shall for the first offense be punished by a fine of not less than fifteen nor more than five hundred dollars, or by imprisonment for not more than six months, and for each subsequent offence by a fine of not less than fifty nor more than one thousand dollars, or by imprisonment for not more than six months, or both.

1927, 278, § 1.

1934, 373, § 1.



**SECTION 65S. Fees for Licenses and Permits.** The fees for licenses and permits shall be as follows:—

License for retail manufacturer, five dollars for each plant;

License or permit for wholesale manufacturer, to manufacture within the commonwealth or to sell within the commonwealth, as the case may be, not more than twenty-five thousand gallons, not less than five nor more than twenty-five dollars; more than twenty-five thousand but not more than one hundred thousand gallons, fifty dollars; more than one hundred thousand but not more than two hundred and fifty thousand gallons, one hundred dollars; more than two hundred and fifty thousand but not more than five hundred thousand gallons, one hundred and fifty dollars; more than five hundred thousand gallons, two hundred dollars. In every case where the department requests an inspection of the premises of the applicant to be made by a local board of health, the local board shall comply with said request.

1934, 373, § 1.

#### COLD STORAGE

**SECTION 66. Licensing of Cold Storage Warehouses. Report of Articles in Cold Storage.** No person shall maintain a cold storage or refrigerating warehouse without a license issued by the department of public health. Any person desiring such a license may make written application to such department, stating the situation of his plant. Upon receipt of the application the said department shall cause an examination of the sanitary condition of the plant to be made, and if it is found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, said department upon receipt of a license fee of ten dollars shall cause a license to be issued authorizing the applicant to maintain therein a cold storage or refrigerating warehouse for one year. If any warehouse or any part thereof, licensed under this section, is deemed by said department to be conducted in an unsanitary manner, it shall close such warehouse or part thereof, until it has been put in sanitary condition; and said department may also suspend the license if the required changes are not made within a reasonable time. Each such licensee shall submit to the department of public health on or before the fifteenth day of each month, a report on a printed form to be provided by said department, stating the quantities of articles of food placed in cold storage during the month preceding, and also the quantities of articles of food held on the first day of the month in which the report is filed or such other day as the commissioner of public health may from time to time fix.

1912, 652, § 2.  
1914, 792, § 1.  
1917, 149, § 2.

1919, 350, § 96.  
1920, 397, § 1.

G. L. 94, § 66.  
7 Op. A. G. 190.

**SECTION 66A. Certain Sections not Applicable to Locker Plants.** Neither the provisions of section sixty-six which require licensees maintaining cold storage or refrigerating warehouses to make reports to the department of public health nor the provisions of section seventy or seventy-one shall apply

with respect to articles of food received or stored in any locker in any such warehouse. The word "locker", as used in this section, shall mean any separate and individual compartment in any such warehouse, having a capacity of not more than twenty-five cubic feet, which is provided for use by an individual under lease or otherwise for the sole purpose of storing or freezing articles of food owned by him and intended for use and consumption by him or his family.

1945, 109.

**SECTION 67. Department and Local Boards of Health to Inspect. Rules, etc.** Boards of health of towns within their towns shall inspect, and the department of public health shall inspect and supervise all cold storage or refrigerating warehouses and shall make such inspection of the entry of articles of food therein as they deem necessary to secure proper enforcement of the laws relative to cold storage. The department may make rules and regulations to secure a proper enforcement of sections sixty-six to seventy-two, inclusive, and ninety-two.

1910, 640.  
1912, 652, §§ 8, 9.

1914, 792, § 1.  
1919, 28; 350, § 96.

G. L. 94, § 67.  
5 Op. A. G. 553.

**SECTION 68. Department, etc., to have Access to Certain Places.** The department of public health and local boards of health, their agents, inspectors or employees shall be permitted access to each establishment mentioned in the preceding section, and to all parts thereof at all reasonable times for the purpose of inspection and enforcement of any provision of law relative to food products.

1910, 640.  
1912, 652, § 3.

1914, 792, § 1.  
1919, 28; 350, § 96.

G. L. 94, § 68.

**SECTION 69. Regulation of Cold Storage.** No article of food intended for human consumption shall be placed or retained in cold storage if deemed by the department of public health to be diseased, tainted or otherwise unwholesome, and no person shall return to cold storage any article of food that has once been released from such storage for the purpose of placing it on the market for sale, but this section shall not apply to the transfer of goods from one cold storage or refrigerating warehouse to another, provided that such transfer is not made for the purpose of evading any provision of sections sixty-six to seventy-two, inclusive, and ninety-two. No person shall alter, deface or remove any marking on cold storage food which shows the date of its receipt in cold storage until after the food is finally withdrawn for the purpose of immediate sale for consumption, nor shall any person transfer the ownership of food in cold storage without previously making known to the purchaser the date on which it was originally placed in cold storage.

1912, 652, §§ 3, 7.  
1914, 792, § 1.  
1917, 149, § 5.

1919, 28; 350, § 96;  
351, §§ 7, 8.  
1920, 297, §§ 3, 4.

G. L. 94, § 69.  
243 Mass. 474.

**SECTION 70. Limit of Time Food may be kept in Cold Storage.** No person shall hold any article of food in cold storage which has been in cold storage longer than twelve calendar months, except with the consent of the department of public health. The said department, upon application, may extend the period of storage beyond twelve months for a par-



ticular consignment of goods, if the goods in question are found upon examination to be in proper condition for further storage at the end of such time. The length of time for which further storage is allowed shall be specified by the department. A report on each case in which such extension of storage is permitted, including information relating to the reason for the action of said department, the kind and amount of goods for which the storage period was extended, and the period of extension, shall be included in the annual report of the commissioner of public health.

1912, 652, § 5.  
1914, 792, § 1.  
1917, 149, § 3.

1919, 350, § 96.  
G. L. 94, § 70.  
243 Mass. 474.

4 Op. A. G. 1.  
5 Op. A. G. 583.

One of the means for compassing the end of the combination described in the indictment was to be the holding of fresh fish in cold storage for a longer period than twelve months without the consent of designated State officers. Held, that such conduct was a crime under G. L., c. 94, §§ 69-73.

Sham bidding and sham selling of fish at auction on the fish exchange in Boston, alleged in the indictment described to have been one of the means for attaining the end of the combination, was a crime at common law. *Comm. v. Dyer*, 243 Mass. 473.

**SECTION 71. Marking Date of Receipt of Food in Cold Storage.** The date of receipt into cold storage shall be plainly marked either upon the containers in which any articles of food deposited in such storage are packed, or, if not packed in containers, on or in connection with all such articles, except fish. When deposited in cold storage, all articles of food which have been previously stored in any other state or country shall be plainly marked, as above provided, with the date of their original deposit in cold storage.

1912, 652, § 4.  
1920, 297, § 2.

G. L. 94, § 71.

243 Mass. 474.

**SECTION 72. Marking of Goods, formerly in Cold Storage regulated.** Except as provided in sections seventy-eight and ninety-one, no person shall sell or offer or expose for sale articles of food which have been held in cold storage without notifying each person purchasing or intending to purchase the same that they have been so held by displaying in a conspicuous place a sign marked "Cold Storage Goods Sold here." No person shall represent or advertise as fresh goods articles of food which have been held in cold storage.

1912, 652, § 6.  
1917, 149, § 4.

1919, 351, § 10.  
G. L. 94, § 72.

243 Mass. 474.

**SECTION 73. Penalty.** Whoever violates any provision of sections sixty-six to seventy-two, inclusive, and ninety-two, shall for the first offence be punished by a fine of not more than one hundred dollars, and for a subsequent offence by a fine of not more than five hundred dollars or by imprisonment for not more than one month, or both.

1912, 652, § 10.

G. L. 94, § 73.

243 Mass. 474.

**SECTION 77A. Importation of Fresh Swordfish Regulated.** No person shall import, or cause to be imported, into this commonwealth for purposes of sale, any fresh swordfish unless properly packed in

boxes, crates or barrels and so iced as to prevent the same from becoming infected, contaminated or unwholesome.

1934, 216.

**SECTION 88B. Shucked Scallops and Quahaugs in the Shell to be Sold Only by Weight.** No shucked scallops or quahaugs in the shell shall be sold except by weight. Whoever himself or by his servant or agent violates any provision of this section shall be punished by a fine of ten dollars.

1936, 176.

## EGGS.

**SECTION 89. License to can, etc., Eggs.** Application for the carrying on of an establishment for the breaking and canning of eggs shall be made by the proprietor thereof to, and may be granted by, the aldermen or selectmen, or, in a town having a population of more than five thousand, the board of health. The application shall be written, signed and sworn to by one or more of the owners or persons carrying on the business, or if a corporation by some authorized officer thereof, and shall state the name and address of all such owners or persons, the location of the establishment and the nature of the products thereof which are to be sold or used for food. The board of health of a town may make and enforce such rules and regulations as it deems necessary for the conduct of such establishments, and any license therefor may be revoked for any violation of such rules and regulations, after notice to the licensee and a hearing before said board. This section shall also apply to licenses for establishments mentioned in section one hundred and forty-four.

1914, 325, § 1.

G. L. 94, § 89.

**SECTION 90. Penalty for Canning, etc., Eggs without a License.** Whoever carries on an establishment for the breaking or canning of eggs without a license as provided in the preceding section shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not more than three months, or both.

1914, 325, § 2.

1917, 11.

G. L. 94, § 90.

**SECTION 90A. Sale and Distribution of Eggs.** Except as hereinafter otherwise provided, no person shall sell, or offer, expose or advertise for sale, eggs as "fresh eggs", "strictly fresh eggs", "nearby eggs" or "new-laid eggs" or eggs described with words of similar import, unless they meet the following specifications when examined by a method known as "candling", viz.:—(1) the shell shall be clean and sound, (2) the air cell shall be not more than one quarter inch in depth and shall be localized and regular in outline, (3) the white shall be firm and clear, (4) the yolk shall not be plainly visible but may be dimly or slightly visible, and (5) there shall be no visible germ development.

Not more than ten per cent of the number of eggs sold at wholesale or offered, exposed or advertised for sale as aforesaid under any such description, and not more than two eggs in each dozen sold at retail or offered, exposed or advertised for sale as aforesaid under any such description, may vary from



the foregoing specifications but only in the following particulars:—(1) the air cell may be not more than three eighths of an inch in depth and may be slightly tremulous, (2) the yolk may be plainly visible and mobile, (3) the white may be reasonably firm, and (4) germ development may be slightly visible; and, in addition, there shall be permitted, in respect to the selling, or offering, exposing or advertising for sale, of eggs at wholesale as aforesaid, a reasonable tolerance established by rules and regulations of the department, authority to establish the same being hereby granted.

No person shall sell, or offer or expose for sale, eggs which have been preserved or protected by treating the shells thereof unless the basket, box or other container in which the eggs are placed shall be plainly marked with letters not less than one half inch in height as "shell-treated" or "shell protected". Whoever violates any provision of this section shall be punished by a fine of not more than twenty-five dollars for the first offence, and not more than one hundred dollars for each subsequent offence. The department of agriculture shall enforce the provisions of this section.

1935, 369.

*Superseded*  
SECTION 90B. **Standard Sizes in Connection with the Sale and Distribution of Eggs.** No person shall sell, or offer or expose for sale, eggs unless the carton or other container thereof contains or bears a proper designation or description relating to the size of such eggs, as hereinafter provided, and no person shall advertise eggs for sale at stated prices unless such advertisement contains a proper designation or description relating to the size of such eggs, as hereinafter provided.

Eggs shall be divided into four sizes, to be known as "large", "medium", "pullet" and "peewee". The proper designation of size shall be plainly and conspicuously shown in the sale, or offering or exposing for sale, of eggs and in the advertisement for the sale thereof if the price is stated in the advertisement.

"Large" eggs shall be eggs having an average weight of not less than twenty-four ounces per dozen with no egg or eggs below the rate of twenty-three ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of twenty-two ounces per dozen.

"Medium" eggs shall be eggs having an average weight of not less than twenty-one ounces per dozen with no egg or eggs below the rate of twenty ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of nineteen ounces per dozen.

"Pullet" eggs shall be eggs having an average weight of not less than eighteen ounces per dozen with no egg or eggs below the rate of seventeen ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of sixteen ounces per dozen.

"Peewee" eggs shall be eggs which do not meet the requirements of "large", "medium" or "pullet" eggs.

The provisions of this section shall not apply to the sale, or offering or exposing for sale, of eggs at wholesale unless they are packed in cartons or other containers for resale at retail; nor shall they apply to the sale, or offering or exposing for sale, of eggs unsorted as to size, if the cartons or other containers thereof are plainly and conspicuously marked and identified as "not sized", and if any advertisement advertising such eggs for sale at stated prices clearly vindicates that such eggs are "not sized".

The commissioner of agriculture is hereby authorized, after a hearing, due notice whereof shall have been given, to establish rules and regulations for the enforcement of this section, and the department of agriculture shall enforce said provisions.

Whoever violates any provision of this section, or any rule or regulation made thereunder, shall be punished for the first offence by a fine of not more than twenty-five dollars, and for a subsequent offence by a fine of not more than fifty dollars. Whoever obstructs or hinders said commissioner or any of his assistants in the performance of his duties under this section shall be punished by a fine of not more than fifty dollars.

1938, 404.

SECTION 91. **Sale of Eggs taken from Cold Storage regulated. Penalty.** Whenever eggs which have been in cold storage are sold at wholesale or retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs", or there shall be attached to such container a placard or sign having on it the said words. If eggs which have been in cold storage are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" plainly and conspicuously marked upon it, shall be displayed among, upon or immediately above the said eggs. The display of the words "cold storage eggs" shall be in letters not less than one inch in height, except that the container in which eggs sold at retail are delivered to the customer may be marked in letters less than one inch in height if uncondensed gothic type is used, but such letters shall in no case be less than one half inch in height. All markings required by this section shall be done in a manner approved by the commissioner of public health. Whoever violates this section shall be punished by a fine of not less than ten nor more than five hundred dollars.

1913, 588, §§ 1, 2.

1914, 545; 792, § 1.

1915, 55.

1919, 350, § 96.

G. L. 94, § 91.

4 Op. A. G. 8, 318.

306 Mass. 368.

SECTION 92. **Broken Eggs in Cold Storage, Denaturing and Marking.** Broken eggs packed in cans, if not intended for food, shall be denatured when deposited in cold storage, and shall be marked by the owner, in accordance with forms prescribed by the



department of public health, so as plainly to indicate that they are not to be sold for food.

1912, 652, § 3.  
1914, 792, § 1.  
1917, 149, § 6.

1919, 350, § 96.  
G. L. 94, § 92.

For penalty see § 78.  
4 Op. A. G. 59.

**SECTION 92A. Sale of Decayed Eggs for Food Purposes regulated.** No person shall sell or offer or expose for sale for food purposes, or have in possession with intent to sell for such purposes, eggs which, either before or after removal from the shell, are wholly or partly decayed or decomposed, eggs, in the fluid state, any part of which is wholly or partly decayed or decomposed, eggs, in the fluid state or otherwise, which are mixed with parts of eggs derived from eggs which are wholly or partly decayed or decomposed, or frozen masses of broken eggs, if the mass contains eggs wholly or partly decayed or decomposed, or which are mixed with parts of eggs taken from eggs which were wholly or partly decayed or decomposed; nor shall any person use in the preparation of food products eggs which are wholly or partly decayed or decomposed, or deliver or sell such eggs in or at any establishment where food products are prepared or manufactured, or purchased or accept the same in or at any such establishment for use in the preparation of food products; but nothing in this section shall prohibit the purchase, sale or possession for other than food purposes of such eggs. The department of public health shall enforce this section. Violation of any provision of this section shall be punished by a fine of not less than ten nor more than one thousand dollars, or by imprisonment for not less than three months, or both.

1921, 486, § 23.

G. L. 94, § 92A.

4 Op. A. G. 59.

**SECTION 92B. Meats and Poultry. Sale at Retail to be by Weight.** All meats and poultry shall be sold at retail only by weight and, except when sold in package form bearing a plain and conspicuous statement of quantity of contents as provided in section one hundred and eighty-one, such weight shall be determined at the time of sale. Whoever himself or by his servant or agent violates any provision of this section shall be punished by a fine of ten dollars.

1935, 97.

#### SLAUGHTER HOUSES.

**SECTION 118. Slaughter Houses to be licensed.** The proprietor of each slaughter house, canning, salting, smoking or rendering establishment, and of each establishment used for the manufacture of sausages or chopped meat of any kind, who is engaged in the slaughter of neat cattle, horses, mules, sheep or swine, the meat or product of which is to be sold or used for food, shall annually in April apply for a license to the aldermen of the city or to the selectmen or, in a town having a population of more than five thousand, to the board of health, if any, of the town where such slaughter house or establishment is located. The application shall be in writing signed and sworn to by one or more of the owners or persons carrying on such business, or, if a corporation, by some authorized officer thereof, shall state the name and address of all the owners or per-

sons carrying on said business, the location of the slaughter house or establishment, the estimated number of neat cattle, horses, mules, sheep or swine to be slaughtered per week, the days of the week upon which they are to be slaughtered and the nature of the products thereof to be sold or used for food.

1894, 491, § 17.  
1895, 496, § 3.  
1897, 428, § 2.  
R. L. 75, § 99.  
G. L. 94, § 118.

109 Mass. 315, 320.  
1943, 332, § 1.  
181 Mass. 565.  
250 Mass. 575.  
306 Mass. 372.

303 Mass. 149.  
Op. A. G. (1927), 93.  
8 Op. A. G. 279.  
'42-44, Op. A. G. 137.

The section is constitutional. *Watertown v. Mayo*, 109 Mass. 315.

**SECTION 119. Issue of Licenses. Record. Fee.** The aldermen, selectmen, or such other officers as they shall designate, or, in a town having a population of more than five thousand, the board of health, if any, may annually issue licenses to carry on the business of slaughtering neat cattle, horses, mules, sheep or swine to applicants therefor. Except as provided in sections one hundred and twenty and one hundred and twenty A, the fee for each license shall be ten dollars. The license shall name the persons licensed to conduct such business, and the building or establishment where it is to be carried on, and it shall continue in force until May first of the year next ensuing, unless sooner forfeited or rendered void. A record shall be kept by the board or officers authorized to issue such licenses of all applications for licenses under section one hundred and eighteen and of all licenses issued, which shall be evidence of the issue of any such license. Such board or officers shall annually, on or before June first, send to the department of public health a copy of each application made to them under section one hundred and eighteen and of their action thereon, together with a list of the names and addresses of all persons who, although engaged in the business named in said section on the preceding April thirtieth, failed to make application for a license.

1894, 491, § 18.  
1895, 496, § 4.  
1897, 428, § 2.  
R. L. 75, § 100.  
1911, 297, § 2.

1914, 792, § 1.  
1919, 350, § 96.  
G. L. 94, § 119.  
1943, 332, § 2.  
1924, 496, § 1.  
1949, 334, § 1.

181 Mass. 565.  
221 Mass. 31.  
250 Mass. 575.  
6 Op. A. G. 688.  
Op. A. G. (1927), 93.  
For penalty see § 184.

A license to slaughter granted by the mayor and aldermen under this section is not good against a prohibition by the board of health under R. L., c. 75, § 91. *Cambridge v. Trelegan*, 181 Mass. 565.

Under R. L., c. 75, § 100, as amended by St. 1911, c. 297, § 2, the question whether the population of a certain town is more than five thousand, so that a license for a slaughter house can be granted by the board of health instead of by the selectmen, must be determined by the last census taken by the Commonwealth or by the United States, and in no other way. *Commissioner of Health v. Bunzel*, 221 Mass. 31.

**SECTION 120. License Fee.** In cities and towns which accept this section the annual license fee for carrying on the business of slaughtering neat cattle, horses, mules, sheep or swine shall be such sum, not



INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

(See page 61, insert in place of Section 90B)

**SECTION 90B. STANDARD SIZES IN CONNECTION WITH THE SALE AND DISTRIBUTION OF EGGS.** No person shall sell, or offer or expose for sale, eggs unless the carton or other container thereof contains or bears a proper designation or description relating to the size of such eggs, as hereinafter provided, and no person shall advertise eggs for sale at stated prices unless such advertisement contains a proper designation or description relating to the size of such eggs, as hereinafter provided.

Eggs shall be divided into six sizes to be known as "jumbo", "extra large", "large", "medium", "pullet or small", and "peewee". The proper designation of size shall be plainly and conspicuously shown in the sale, or offering or exposing for sale, of eggs and in the advertisement for the sale thereof if the price is stated in the advertisement.

"Jumbo" eggs shall be eggs having an average weight of not less than thirty ounces per dozen with no egg or eggs below the rate of twenty-nine ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of twenty-eight ounces per dozen.

"Extra Large" eggs shall be eggs having an average weight of not less than twenty-seven ounces per dozen with no egg or eggs below the rate of twenty-six ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of twenty-five ounces per dozen.

"Large" eggs shall be eggs having an average weight of not less than twenty-four ounces per dozen with no egg or eggs below the rate of twenty-three ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of twenty-two ounces per dozen.

"Medium" eggs shall be eggs having an average weight of not less than twenty-one ounces per dozen with no egg or eggs below the rate of twenty ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of nineteen ounces per dozen.

"Pullet or Small" eggs shall be eggs having an average weight of not less than eighteen ounces per dozen with no egg or eggs below the rate of seventeen ounces per dozen. A tolerance of not more than four per cent by volume shall be allowed in this classification, but eggs under this tolerance shall weigh not less than at the rate of sixteen ounces per dozen.

"Peewee" eggs shall be eggs having an average weight of less than eighteen ounces per dozen.

The provisions of this section shall not apply to the sale, or offering or exposing for sale, of eggs at wholesale unless they are packed in cartons or other containers for resale at retail; nor shall they apply to the sale, or offering or exposing for sale, of eggs unsorted as to size, if the cartons or other containers thereof are plainly and conspicuously marked and identified as "not sized", and if any advertisement advertising such eggs for sale at stated prices clearly indicates that such eggs are "not sized".

The commissioner of agriculture is hereby authorized, after a hearing, due notice whereof shall have been given, to establish rules and regulations for the enforcement of this section, and the department of agriculture shall enforce said provisions.

Whoever violates any provision of this section, or any rule or regulation made thereunder, shall be punished for the first offence by a fine of not more than twenty-five dollars, and for a subsequent offence by a fine of not more than fifty dollars. Whoever obstructs or hinders said commissioner or any of his assistants in the performance of his duties under this section shall be punished by a fine of not more than fifty dollars.





exceeding one hundred dollars, as the aldermen or selectmen fix.

1916, 158.	1949, 334, § 2.	Op. A. G. (1927); 93.
1943, 332, § 3.	6 Op. A. G. 683.	8 Op. A. G. 279.
G. L. 94, § 120.		

**SECTION 120A. Fees, etc., by Slaughter House Licensees.** A city or town which accepts this section may, in addition to the annual fee under section one hundred and nineteen or one hundred and twenty, for a license to carry on the business of slaughtering neat cattle, horses, mules, sheep or swine, require the payment by the licensee of a further fee of not exceeding one dollar for each animal slaughtered under such license, but such further fee shall not be required for any animal slaughtered under federal inspection. Additional fees provided for under this section shall be paid only by the licensee or his authorized agent and only to the city or town treasurer at such times and in such manner as the aldermen or selectmen by vote determine. The inspector referred to in section one hundred and twenty-six shall not act in the capacity of such authorized agent.

G. L. 94, § 120A.	1924, 496, § 2.	1949, 334, § 3.
8 Op. A. G. 279.	1943, 332, § 4.	

**SECTION 121. General Powers and Duties of District Health Officers, etc.** The district health officers in their respective districts, and the inspectors appointed by the department of public health for duties relative to the sale of food and drugs, shall have the same rights, powers and authority for and in respect of the inspection, seizure and disposition of all carcasses, meats and provisions which are tainted, diseased, corrupted, decayed, unwholesome, or from any cause unfit for food, or the sale of which for food is unlawful, as are conferred by sections one hundred and twenty-six and one hundred and forty-six, or otherwise by law, upon boards of health of towns or their inspectors in respect of the articles specified in said sections, together with power to prosecute all offences relating thereto.

1908, 329, § 4.	G. L. 94, § 121.	Op. A. G. (1927), 93.
1914, 792, §§ 1, 5.	250 Mass. 575.	8 Op. A. G. 279.
1919, 350, § 96.	6 Op. A. G. 257.	

**SECTION 122. Certain Powers and Duties of Certain Inspectors, etc.** The department of public health and its inspectors, the district health officers and all local boards of health and their inspectors, officers, agents and assistants in their respective districts, shall have and exercise the same powers and duties in and for the enforcement of sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three and one hundred and thirty-eight as are conferred or imposed by law upon any local board of health, inspector, officer, agent or assistant in respect of any other article or substance the sale or use of which for food is unlawful or prohibited; and they shall seize any carcass or part or product thereof described in section one hundred and thirty-eight, and cause the same to be destroyed forthwith or disposed of otherwise than for food; and all moneys received by the said department or by any local board of health for any property so disposed of, after deducting the expenses of such seizure and disposal, shall be paid to the owner of such property, if known.

1908, 329, § 2.	G. L. 94, § 122.	Op. A. G. (1927), 93.
1914, 792, §§ 1, 5.	250 Mass. 575.	8 Op. A. G. (1927), 279.
1919, 350, § 96.	6 Op. A. G. 257.	

**SECTION 123. Inspectors, etc., to visit Certain Places.** Inspectors, officers, agents and assistants mentioned in section one hundred and twenty-two shall visit and keep under observation each place within their respective districts where neat cattle, horses, mules, sheep, swine or other animals intended for slaughter or for sale or use as food are delivered from transportation, and shall have at all times free access to each such place and to each railroad train or car or other vehicle in which such animals are transported, to prevent, detect and punish violations of section one hundred and thirty-eight.

1913, 329, § 3.	1932, 180, § 15.	6 Op. A. G. (1927), 93.
G. L. 94, § 123.	1943, 332, § 5.	8 Op. A. G. 279.

**SECTION 124. Control of Department of Public Health over Slaughter Houses.** All slaughter houses shall be under the supervision of the department of public health and subject to inspection by district health officers in their respective districts. Said department of public health shall establish, and may from time to time amend, modify, repeal or suspend, rules and regulations, including uniform minimum requirements, for the maintenance and operation of slaughter houses. If any slaughter house licensed under section one hundred and nineteen is deemed by the local board of public health or by the department of public health to be operated or maintained in an unsanitary manner, or in violation of any of said rules and regulations, or not properly constructed or equipped for said business of slaughtering, said board or said department shall close such slaughter house until such time as it has been put in proper condition, and said board or said department may also suspend the license if the required changes are not made within a reasonable time.

1908, 329, § 5.	G. L. 94, § 124.	250 Mass. 575.
1914, 792, §§ 1, 5.	1943, 508, § 1.	Op. A. G. (1927), 93.
1919, 350, § 96.		

**SECTION 125. Slaughtering of Cattle.** No licensee under section one hundred and nineteen shall slaughter or cause to be slaughtered at his slaughter house or establishment animals on any day other than those specified in the application for such license, or except in the presence of a member of the local board of health or of an inspector appointed therefor by said board; but he may at any time change the days for slaughtering animals, by giving at least seven days' written notice thereof to the board or officer authorized to issue such licenses, who shall immediately give written notice of the change to such inspector.

1894, 491, § 19.	584, § 1.	8 Op. A. G. 279.
1895, 496, § 5.	G. L. 94, § 125.	Op. A. G. (1927), 93.
R. L. 75, § 101.	250 Mass. 575.	For penalty see § 134.
1911, 297, § 3;		

**SECTION 126. Inspection of Carcasses.** An inspector appointed by the local board of health, or member of such board of health acting as such inspector, shall be present at each licensed slaughter house or establishment upon each day when slaughtering is allowed by law to be carried on therein and, upon request of a person referred to in section one hundred and thirty-three, at such person's premises when any of the animals mentioned in said section are to be slaughtered thereon with the intention of selling their carcasses, and shall carefully examine the carcasses of all animals at the time of slaughter. Such inspection shall be made in such manner and



under such rules and regulations as the department of public health may determine and direct. If, in the opinion of such inspector or member, any carcass, or any meat or product thereof is diseased, corrupted, unwholesome or unfit for food, he shall seize it and cause it to be destroyed, as provided in section one hundred and forty-six.

1894, 491, § 20.	1919, 27; 850, § 96.	1946, 218, § 1.
1895, 496, § 6.	G. L. 94, § 126.	Op. A. G. 1929.
R. L. 75, § 102.	250 Mass. 575.	For penalty see § 184.
1911, 297, § 4.	Op. A. G. (1927), 98.	'42-44, Op. A. G. 137.
1914, 792, § 1.		

**SECTION 127. Certain Carcasses to be stamped or branded.** In a slaughtering establishment wherein inspection and branding are not carried on under the rules and regulations for the inspection of live stock and other products, established by the United States department of agriculture in accordance with acts of congress, the carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five and one hundred and twenty-six shall at the time of slaughter, if not condemned, be stamped or branded by the inspector thereof in like manner as those inspected by the United States bureau of animal industry for interstate commerce by a stamp or brand designed for the purpose by the department of public health, which shall be furnished by it to the board of health of a town applying therefor. Each package containing meats so stamped or branded by the inspector as aforesaid, before it has been shipped from the slaughtering establishment, shall have properly secured to it a tag bearing the words "Massachusetts, Inspected, Passed", which tag may be so attached by the licensee. Such stamps and tags shall be uniform in design throughout the commonwealth, but shall contain the name of the town where used.

1901, 891, §§ 1, 2.	1911, 297, § 5.	203 Mass. 602.
R. L. 75, § 103.	1914, 206, § 792, § 1.	250 Mass. 575.
1902, 812.	1919, 850, § 96.	Op. A. G. (1927), 98.
1903, 220, § 1.	G. L. 94, § 127.	8 Op. A. G. 279.
1909, 471.		

For a discussion of the relative authority of State and local inspectors, see *Commonwealth v. Prince*, 203 Mass 602.

**SECTION 128. Appointment, Compensation, etc., of Certain Inspectors.** For the purposes of sections one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, one hundred and thirty-three, and one hundred and forty-seven, said inspectors shall be appointed and compensated, and may be removed, in the manner provided for inspectors of animals, under sections fifteen to seventeen, inclusive, of chapter one hundred and twenty-nine, except that in respect to such first named inspectors, local boards of health and the department of public health shall perform the duties and exercise the authority imposed by said sections upon the mayor or selectmen and upon the director of animal industry, respectively, as to inspectors of animals.

1911, 297, § 6;	G. L. 94, § 128.	Op. A. G. (1927), 98.
584, § 2.	1931, 426, § 215.	Op. A. G. 1929.
1914, 792, § 1.	1946, 218, § 2.	314 Mass. 273.
1918, 268, § 1.	6 Op. A. G. 682, 683.	
1919, 850, §§ 84,		
87. 96.		

**SECTION 129. Carcasses of Certain Animals deemed unfit for Food.** Carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, and one hundred and thirty-three and not stamped or branded as provided in section one hundred and twenty-seven, and all other carcasses of neat cattle, horses, mules, sheep or swine which have not been slaughtered, inspected and stamped or branded, as provided in said sections, shall be deemed unfit for food and shall not be sold or offered for sale.

1901, 891, § 3.	1903, 220, § 1.	1946, 218, § 3.
R. L. 75, § 104.	1909, 476.	1949, 334, § 4.
1902, 812, § 1.	G. L. 94, § 129.	

**SECTION 130. Penalty for Sale, etc., of Unstamped or Falsely Stamped Carcasses.** Whoever sells, or offers for sale, or has in his possession with intent to sell, a carcass or any part thereof deemed unfit for food, as provided in section one hundred and twenty-nine, or whoever, not being a member of a local board of health or a duly appointed inspector, stamps or brands a carcass or any part thereof required by sections one hundred and twenty-seven or one hundred and thirty-three to be stamped or branded, or whoever being a member of a board of health or a duly appointed inspector permits or allows the use of his stamp or brand by one not a member of a board of health or a duly appointed inspector, or whoever counterfeits, procures or has in his possession any stamp or brand required by section one hundred and twenty-seven, or whoever stamps or brands any carcass or any part thereof with any counterfeit stamp or brand, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1901, 891, § 4.	1903, 220, § 1.	250 Mass. 575.
R. L. 75, § 104.	1909, 476.	1946, 218, § 4.
1902, 812, § 1.	G. L. 94, § 130.	1949, 334, § 5.

see 64 A **SECTION 131. Branding, etc., of Carcasses of Neat Cattle, etc., slaughtered without the Commonwealth.** "Official Inspector" defined. Carcasses of neat cattle, horses, mules, sheep and swine slaughtering without the commonwealth shall be deemed unfit for food, and shall not be sold or offered for sale unless they have been inspected at the time of slaughter by an inspector of the Bureau of Animal Industry of the United States Department of Agriculture and have been stamped or branded by said inspector; or, in the case of carcasses slaughtered outside the United States, unless they have been inspected at the time of slaughter in a manner and under certification acceptable to the Bureau of Animal Industry of the United States Department of Agriculture and have subsequently been examined and stamped or branded by said Bureau of Animal Industry.

1912, 243, § 1.	1943, 332, § 6.	214 Mass. 19.
G. L. 94, § 131.	1949, 334, § 6.	

This section was held constitutional in *Commonwealth v. Moore*, 214 Mass. 19.

**SECTION 132. Penalty for Sale, etc., of Certain Unbranded Carcasses.** Whoever sells or offers for sale, handles or has in his possession with intent to sell, a carcass, or any part thereof, required by the preceding section to be stamped or branded and

Chap. 94)

## INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

(See page 64, in place of Section 131)

**SECTION 131. BRANDING, ETC., OF CARCASSES OF NEAT CATTLE, ETC., SLAUGHTERED WITHOUT THE COMMONWEALTH. "OFFICIAL INSPECTOR" DEFINED.** Carcasses of neat cattle, horses, mules, sheep or swine slaughtered without the commonwealth shall be deemed unfit for food, and shall not be sold or offered for sale unless they have been inspected at the time of slaughter by an inspector of the Bureau of Animal Industry of the United States Department of Agriculture and have been stamped or branded by said inspector, or, in the case of carcasses slaughtered outside the United States, unless they have been inspected at the time of slaughter in a manner and under certification acceptable to the Bureau of Animal Industry of the United States Department of Agriculture and have subsequently been examined and stamped or branded

by said Bureau of Animal Industry.

This section shall not prohibit the use of certain by-products, which are obtained from disease-free food animals slaughtered without the commonwealth under duly authorized state or local inspection, in the manufacture of cooked and processed canned foods for small domestic animals when such products conform to, are labeled, and have been shipped under certification in accordance with such rules and regulations as the department of public health may prescribe. Said department of public health is hereby authorized to adopt rules and regulations to carry out the provisions of this section.

1912, 248 s 4

1949, 334, s 6

G.L.94, s 131

214 Mass. 19

1943, 332, s 6

1950, 317





INSPECTION AND SALE OF FOOD, DRUGS  
AND VARIOUS ARTICLES

CHAP. 94.

(To be inserted in place of Section 131, on  
page 64.)

Section 131. Branding, etc., of Carcasses  
of Neat Cattle, etc., slaughtered without the  
Commonwealth. "Official Inspector" defined.  
Carcasses of neat cattle, horses, mules, sheep  
or swine slaughtered without the commonwealth  
shall be deemed unfit for food, and shall not  
be sold or offered for sale unless they have  
been inspected at the time of slaughter by an  
inspector of the Bureau of Animal Industry of  
the United States Department of Agriculture

and have been stamped or branded by said in-  
spector; or, in the case of carcasses slaugh-  
tered outside the United States, unless they  
have been inspected at the time of slaughter  
in a manner and under certification acceptable  
to the Bureau of Animal Industry of the United  
States Department of Agriculture and have sub-  
sequently been examined or stamped or branded  
by said Bureau of Animal Industry.

1912, 246, s 1.  
G.L. 94, s 131.  
1943, 332, s 6.

1949, 334, s 6.  
214 Mass. 19.  
1952, 201.





which has not been stamped or branded as therein provided, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1912, 248, § 1.

G. L. 94, § 182.

1949, 334, § 7.

**SECTION 133. Private Slaughter Houses.** Sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, one hundred and twenty-nine and one hundred and thirty, shall not apply to a person not engaged in the slaughtering business, who, upon his own premises and not in a slaughter house, slaughters his own neat cattle, horses, mules, sheep or swine, but no such person shall so slaughter or cause to be slaughtered any such animal, the carcass of which is intended for sale, except in the presence of an inspector, and such carcass, unless condemned, shall be stamped or branded under section one hundred and twenty-seven by an inspector at the time of slaughter.

1894, 491, § 21.

1908, 329, § 6.

1948, 332, § 7.

1895, 496, § 7.

1912, 248, § 2.

250 Mass. 576.

R. L. 75, § 105.

1916, 189.

For penalty see § 134.

1902, 312, § 2.

G. L. 94, § 183.

1946, 213, § 5.

1908, 220, § 2.

**SECTION 133A. Further Regulations for Slaughtering of Certain Animals.** Except as provided in section one hundred and eighteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, and one hundred and thirty-three, no person shall slaughter any neat cattle, horses, mules, sheep or swine the carcasses of which are intended for sale.

1946, 213, § 6.

**SECTION 134. Penalty.** Whoever violates any provision of sections one hundred and nineteen, one hundred and twenty-five, one hundred and twenty-six, one hundred and thirty-three and one hundred and thirty-three A shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two months, or both.

1894, 491, § 22.

R. L. 75, § 106.

1946, 213, § 7.

1895, 496, § 8.

G. L. 94, § 184.

**SECTION 135. Penalty for Slaughtering, etc., without License.** Whoever, being engaged in the business of slaughtering neat cattle, horses, mules, sheep or swine, without a license slaughters the same or knowingly authorizes or causes the same to be slaughtered with intent to sell the meat or product thereof for food, or, having such license, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, horse, mules, sheep or swine without causing the carcass thereof to be inspected as provided in section one hundred and twenty-six, or sells or authorizes or causes to be sold any carcass or the meat or product thereof knowing that such carcass has not been inspected according to sections one hundred and twenty-six and one hundred and thirty-three, or, except as provided in section one hundred and thirty-three, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, horses, mules, sheep or swine upon his own premises, being other than a slaughter house or establishment mentioned in section one hundred and eighteen, without causing the carcass of such animal to be inspected, or sells or authorizes or causes to be sold the carcass or any meat or product thereof of any such animal slaughtered upon his own premises, knowing that the same has not been inspected as

provided in section one hundred and thirty-three, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two months, or both.

1894, 491, § 22.

G. L. 94, § 185.

250 Mass. 575.

1895, 496, § 8.

1948, 332, § 8.

306 Mass. 372.

R. L. 75, § 106.

**SECTION 136. Possession of Certain Carcasses prohibited. Penalty.** Whoever, being authorized or licensed to slaughter in a town, has in possession either himself or his agent the dressed or plucked carcass, or any part thereof, of a bird or animal which has died a natural death shall be punished by a fine of not more than one hundred dollars.

1912, 487.

G. L. 94, § 186.

**SECTION 137. Conviction Renders License Void.** A conviction under section one hundred and thirty, one hundred and thirty-four or one hundred and thirty-five of any person licensed under section one hundred and nineteen shall render his license void, and no new license shall be granted to him for the balance of the terms of the license so rendered void.

1894, 491, § 23.

G. L. 94, § 187.

1949, 334, § 8.

R. L. 75, § 107.

**SECTION 138. Sale, etc., of Certain Carcasses prohibited.** Whoever sells, offers or exposes for sale or delivers or causes or authorizes to be sold, offered or exposed for sale or delivered for use as food the carcass, or any part or product thereof, of any animal which has come to its death in any manner or by any means other than by slaughter or killing while in a healthy condition, or which at the time of its death was unfit for use as food, by reason of disease, exhaustion, abuse, neglect or otherwise, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

1908, 329, § 1.

1943, 508, § 2.

250 Mass. 570.

G. L. 94, § 188.

The words "when dressed", which among other things prohibits the sale, offer, or exposure for sale or delivery for use as food "of any calf weighing less than forty pounds when dressed, with head, feet, hide and entrails removed", designate as the time of weighing the time when the calf is dressed.

The word "entrails" as used in G. L., c. 94, § 38, means "intestines", and does not include the heart, liver, lungs or windpipe, commonly called the "pluck", nor the sweetbread. *Comm. v. Cohen*, 250 Mass. 570.

**SECTION 139. Certain Provisions of Law not affected.** Sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three, one hundred and thirty-three A and one hundred and thirty-eight shall not affect section one hundred and forty-seven; provided, that said first mentioned sections shall not permit the sale, offering for sale, or keeping with intent to sell, for food, of meat infected in any degree with tuberculosis or other disease.

For a discussion of the laws relating to slaughtering and inspection of meat, see 3 Op. Atty. Gen. 208, which holds that the laws do not permit meat derived from the carcasses of cattle infected to any degree with tuberculosis, or with any other disease, to be sold as food within this Commonwealth.

1909, 474.

G. L. 94, § 189.

1946, 313, § 8.



**SECTION 139A. Establishment and Operation of Poultry Slaughtering Houses.** No person shall maintain an establishment for the slaughtering of poultry without a license from the board of health of the town where the establishment is or is to be located. Any person desiring such a license may make written application to such board, stating the location of the establishment and such other information as may be required by rules and regulations for the enforcement of this section, which the department of public health is hereby authorized to make. Upon receipt of the application the said board shall cause an examination of the establishment to be made, and if it is found to be in a sanitary condition, and to conform to the requirements of said rules and regulations, and otherwise to be properly equipped for the business of slaughtering poultry, said board, upon receipt of a license fee of such amount, not less than one dollar nor more than ten dollars, as it may from time to time fix, shall issue a license authorizing the applicant to carry on such establishment for the slaughtering of poultry for one year. If any such establishment licensed hereunder is deemed by the board issuing such license or by the department of public health to be operated or maintained in an unsanitary manner, or in violation of any of said rules and regulations, or not properly equipped for the business of slaughtering poultry, the board of the department shall close such establishment until such time as it has been put in a condition to conform with the requirements of this section, and said board or department may also suspend the license if the required changes are not made within a reasonable time.

Whoever, himself or by his servant or agent, violates any provision of this section, or of the rules and regulations made hereunder, shall be punished for the first offence by a fine of not more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

This section shall not apply to persons who are engaged in the production of poultry in the state of Massachusetts (including domestic chickens, fowl, ducks, geese and pheasants) and turkeys and who slaughter such poultry and turkeys produced on their own farms or owned by them not less than two weeks prior to slaughter.

1945, 679.

1948, 889.

#### SAUSAGES.

**SECTION 142. Adulteration of Sausages, etc.** For the purposes of this and the following section, sausage or sausage meat shall be deemed to be adulterated.

First. If it contains any cereal or vegetable flour or any product thereof in excess of two per cent, except as authorized by section one hundred and forty-three A;

Second. If it contains any coloring matter, or any substance injurious or deleterious to health;

Third. If it contains water in excess of an amount sufficient to make the product palatable and to facilitate mixing and placing in casings;

Fourth. If it contains, except as casing, the organs of the thoracic and abdominal cavities or any part thereof, except hearts, tripe and liver;

Fifth. If it contains any diseased, contaminated, filthy or decomposed substance; or if it is manufactured, in whole or in part from, or contains a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or unwholesome; or if it is the product of a diseased animal or the product of any animal which has died otherwise than by slaughter.

1898, 198.  
R. L. 213, § 9.  
1918, 650, § 1.

1914, 634, §§ 2, 5.  
1917, 78.

G. L. 94, § 142.  
1921, 425, § 1.

**SECTION 143. Manufacture and Sale of Sausages and Sausage Meat Regulated. Penalty.** No person shall manufacture, sell, or offer or expose for sale, sausages or sausage meat, containing any material or substance which would render the same adulterated within the meaning of section one hundred and forty-two. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars.

1898, 198.  
R. L. 213, § 9.

1918, 650, §§ 2, 3.  
1914, 634, §§ 3-5.

G. L. 94, § 143.  
1930, 818.

**SECTION 143A. Sale of Vegetable Sausages.** Nothing in this chapter shall prevent the sale or the offering or exposing for sale of vegetable sausages as such, if such sausages contain not less than twenty per cent of vegetables or vegetable products and are otherwise made in conformity with the provisions of this chapter; provided, that such sausages are sold, offered or exposed for sale under their own distinctive name.

G. L. 94, § 143A.

1928, 425, § 2.

**SECTION 144. License to manufacture Sausages.** Each application for a license for carrying on an establishment for the manufacture of sausages and chopped meat of any kind shall be made, and any license granted therefor shall be granted, under section eighty-nine. The board of health of a town may make and enforce such rules and regulations as it deems necessary for the conduct of such establishments, and any license therefor may be revoked for any violation of such rules and regulations, after notice to the licensee and a hearing before said board.

1914, 825, § 1.

G. L. 94, § 144.

**SECTION 145. Penalty for making Sausages, etc., without a License.** Whoever carries on an establishment for the manufacture of sausages or chopped meat of any kind without a license as provided in the preceding section shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not more than three months, or both.

This section shall not apply to retail dealers in chopped meats and unsmoked sausages who manufacture the same for their retail trade.

1914, 825, § 2.  
1915, 28.

1917, 11.

G. L. 94, § 145.



## INSPECTION AND SALES OF MEAT, ETC.

<sup>superseceded</sup>  
**SECTION 146. Inspection of Meat, etc.** Each local board of health by themselves, their officers or agents, may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their town, and all veal found, offered or exposed for sale or kept with intent to sell therein, and for such purpose may enter any place where such carcasses or articles are stored, kept or exposed for sale. If in its opinion, said veal is that of a calf less than two weeks old when killed, or if on inspection it is found that said carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, the said board shall seize and cause the same to be destroyed forthwith or disposed of otherwise than for food. All money received by said board for property disposed of as aforesaid, after deducting the expenses of said seizure and disposal, shall be paid to the owner of such property. If said board seizes or condemns any such carcass or meat because affected with a contagious disease, it shall immediately give notice to the director of livestock disease control stating the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

**Not to prevent Exposure of Food Articles in Boston "Market Limits."** Local boards of health, subject to the approval of the department of public health, may make and enforce reasonable rules and regulations as to the conditions under which all articles of food may be kept or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before such a board of health submits such rules and regulations to said department for approval, said board shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such town. Any person affected by such rules and regulations, in the form in which they are presented to said department for approval, may appeal to said department for a further hearing, and said department shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner above set forth. No regulation adopted in accordance with this section shall be construed as preventing the exposure of food articles for sale at retail in the Boston "market limits", as defined in the ordinances of Boston, on Saturdays or on the day immediately preceding any holiday observed in Boston, but no area in said "market limits", where food articles on June sixth, nineteen hundred and fourteen were not allowed to be exposed for sale at retail on these days, shall be occupied for the exposure of food articles without a permit from the board of health.

1866, 253, § 1.	R. L. 56, §§ 70, 71.	203 Mass. 602.
1872, 231, §§ 2, 3.	1907, 243.	241 Mass. 406.
1875, 29, §§ 2, 3.	1908, 411, §§ 1, 2.	4 Op. A. G. 16, 100,
1876, 180, §§ 2, 3.	1912, 448; 608, §§	390, 637.
P. S. 58, §§ 2, 3;	1, 2, 4.	6 Op. A. G. 282.
208, § 2.	1914, 627; 792, § 1.	1934, 340, § 6.
1892, 195, § 2.	1919, 350, §§ 39-41,	See Sec. 18.
1894, 491, §§ 10-13.	44, 96.	1943, 508, § 3.
1899, 408, § 20.	G. L. 94, § 146.	

**SECTION 147. Regulations for Inspection of Meat.**

The department of public health may make regulations for the inspection of meat, which shall conform to the regulations of the United States bureau of animal industry for the inspection of meat for export and for interstate commerce.

1898, 451, § 2.	1911, 297, § 1.	1919, 350, § 96.
1899, 408, § 9.	1914, 792, § 1.	G. L. 94, § 147.
R. L. 90, § 7.		

For a discussion of State regulations affecting interstate commerce, see *Commonwealth v. Moore*, 214 Mass. 19.

**SECTION 147A. Inspection, Handling, Storage, Sale and Exchange of Game, Poultry and Certain Other Meat intended for Food Purposes, regulated.** The department of public health may make regulations for the inspection of game, poultry, and other meat except that of cattle, sheep or swine, intended for sale or exchange for use as food, and as to the conditions under which such game, poultry and other meat may be handled, stored, sold or exchanged. Whoever violates any provision of such a regulation shall be punished by a fine of not more than fifty dollars.

G. L. 94, § 147A.	1929, 106,	'42-44, Op. A. G. 62.
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**SECTION 148. Penalties.** Whoever violates any rule or regulation of a local board of health which is approved by the department of public health shall be punished by a fine of not more than one hundred dollars.

Failure to give a notice required by section one hundred and forty-six to be given by a board of health to the director of livestock disease control shall be punished as provided in section twenty-eight of chapter one hundred and twenty-nine.

1907, 243.	1919, 350, §§ 39-41,	1934, 340, § 6A.
1912, 608, §§ 1, 2, 4.	44, 96.	241 Mass. 406.
1914, 627; 792, § 1.	G. L. 94, § 148.	

**SECTION 149. Interference with Certain Officers prohibited. Penalty.** Whoever prevents, obstructs or interferes with a local board of health, its officers or agents, in the performance of its duties as provided in section one hundred and forty-six, or hinders obstructs or interferes with any inspection or examination by it or them, or secretes or removes any carcass, meat, fish, vegetables, fruit or provisions of any kind, for the purpose of preventing the inspection or examination of the same under sections one hundred and forty-six, one hundred and fifty to one hundred and fifty-three, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1894, 491, § 13.	1908, 411, § 3.	G. L. 94, § 149.
R. L. 56, § 72.		

**SECTION 150. Sale, etc., of Unwholesome Food prohibited. Penalty.** Whoever, himself or by his agent, sells or offers for sale for food or drink any diseased animal or product thereof or any tainted, diseased, corrupt, decayed or unwholesome carcass, meat, vegetable, produce, fruit or provisions of any kind, except when packed in such a container that upon reasonable inspection the condition of the contents thereof cannot be ascertained, without mak-



ing the condition of the thing sold or offered for sale fully known to the buyer, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months, or both.

1784, 50.  
R. S. 181, § 1.  
G. S. 166, § 1.  
1872, 281, § 5.  
1875, 29, § 5.  
1876, 180, § 5.  
P. S. 58, § 5; 208, § 1.  
1894, 491, § 15.

R. L. 56, § 78.  
1907, 293.  
1913, 687.  
G. L. 94, § 150.  
1927, 46.  
1928, 40, § 2.  
1 Pick, 524.  
11 Pick, 484.

12 Cush, 499.  
294 Mass. 24.  
295 Mass. 350.  
296 Mass. 524.  
298 Mass. 108.  
306 Mass. 515.  
307 Mass. 373.  
312 Mass. 70.

**SECTION 150A. Penalty for Sale of Certain Unwholesome Food or Drink, etc.** Whoever knowingly exposes for sale or has in possession with intent to sell, for food or drink, anything described in the preceding section shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than sixty days, or both. This section shall not apply to a wholesale dealer who has in his possession fruit or vegetables in the original package with intent to disclose fully to the purchaser the partly decayed condition thereof.

1921, 486, § 24.

250 Mass. 574.

The guilty intent is a necessary element in the offence which this section prohibits. *Hemmenway v. Woods*, 1 Pick. 524; *Commonwealth v. Boynton*, 12 Cush. 499. It is unnecessary to prove damage. *Peckham v. Holman*, 11 Pick. 484.

**SECTION 151. Sale, etc., of Certain Veal prohibited. Penalty.** Whoever kills or causes to be killed a calf when less than two weeks old, with intent to sell for food the veal thereof, or knowingly sells for food, offers or exposes for sale therefor, or has in his possession with intent to sell for food, the veal of a calf so killed shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1855, 239.  
G. S. 106, § 2.  
1866, 253, § 1.  
1872, 281, § 5.

1875, 29, § 5.  
1876, 180, § 5.  
P. S. 208, § 2.  
1894, 491, § 15.

R. L. 56, § 74.  
G. L. 94, § 151.  
97 Mass. 567.  
1943, 508, § 4.

The person who kills, or causes to be killed, a calf less than four weeks old for the purpose of sale is guilty, whether or not he knows the calf to be less than four weeks old. The person who sells the veal is not guilty unless he knows the calf to be less than four weeks old. *Commonwealth v. Raymond*, 97 Mass. 567.

**SECTION 151A. Horse Meat.** Whoever serves horse meat or causes it to be served at any lunch counter or in any restaurant, hotel, boarding house, convalescent home, hospital or like place, to a guest, patron or patient thereof, without notifying said guest, patron or patient that the substance so served is horse meat, shall be punished by a fine of not less than ten nor more than fifty dollars.

1948, 189.

**SECTION 152. Boards of Health may cause Publication of Certain Facts.** The board of health of the town where any animal or property has been condemned under section one hundred and forty-six may cause a description of the place in which such condemned property was found, the name of each person in whose possession it was found and the name of each person convicted of an offence under

the three preceding sections to be published in two newspapers published in the county where such property was found.

1872, 231, § 6.  
1875, 29, § 6.  
1876, 180, § 6.

P. S. 58, § 6.  
1894, 491, § 16.  
1931, 426, § 74.

R. L. 56, § 75.  
G. L. 94, § 152.

*See insertion*  
**SECTION 152A. Sale and Transportation of Poultry.** No person shall engage regularly in the business of buying or selling poultry which is to be sold or used for food unless he has a license from the commissioner of agriculture, the fee for which shall not exceed two dollars. Such license shall expire on December thirty-first of the year or part thereof for which issued and may be revoked by the commissioner for cause and after a hearing. The commissioner may make suitable rules or regulations governing the issue of such licenses. The licensee shall affix or cause to be affixed to each vehicle used in the business of buying or selling poultry as aforesaid a certified copy of such license in which such vehicle shall be particularly described. The provisions of this section shall not require the licensing of any merchant who does not go from place to place buying or selling poultry nor of any producer.

The word "merchant", as used in this section, shall include any wholesale, jobber, commission merchant or retailer dealing in poultry who has an established place of business.

1934, 296.

1985, 157, § 1.

**SECTION 152B. Transportation of Live Poultry. Regulated.** No person, other than a lawfully authorized common or contract carrier, shall transport live poultry in connection with the sale thereof, from place to place upon any public highway or road unless he has in his possession a bill of sale or memorandum signed by the vendor and containing the vendor's address, the date of sale, breed, weight, price and number of poultry, or such information as will particularly describe such poultry and establish the proper ownership thereof.

1934, 296.

1985, 157 § 2.

**SECTION 152C. Penalty.** Whoever violates any provision of section one hundred and fifty-two A or one hundred and fifty-two B shall be punished; for a first offence, by a fine of not more than one hundred dollars and, for any subsequent offence, by a fine of not more than five hundred dollars or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment.

*Section 152D - See insertion*

**SECTION 153. Sale, etc., of Poultry regulated. Penalty.** Whoever knowingly sells or exposes for sale dead poultry, before it has been properly dressed by the removal of the crop and entrails if they contain food, shall be punished by a fine of not less than five nor more than fifty dollars. Each local board of health shall cause this section to be enforced in its town.

1883, 230.  
1887, 94.

R. L. 56, § 76.  
G. L. 94, § 153.

250 Mass. 574.

**SECTION 153A. Sale of Meat, etc., containing preservatives, Regulated.** Whoever himself or by his agent sells or offers for sale any meat or meat



INSPECTION AND SALE OF FOOD, DRUGS  
AND VARIOUS ARTICLES.

CHAP. 94.

(To be inserted in place of section 146, on page 67.)

Section 146. Inspection of Meat, etc. Each local board of health by themselves, their officers or agents, may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their town, and all veal found, offered or exposed for sale or kept with intent to sell therein, and for such purpose may enter any place where such carcasses or articles are stored, kept or exposed for sale. If in its opinion, said veal is that of a calf less than two weeks old when killed, or if on inspection it is found that said carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, the said board shall seize and cause the same to be destroyed forthwith or disposed of otherwise than for food. All money received by said board for property disposed of as aforesaid, after deducting the expenses of said seizure and disposal, shall be paid to the owner of such property. If said board seizes or condemns any such carcass or meat, because affected with a contagious disease, it shall immediately give notice to the director of livestock disease control stating the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

Not to prevent Exposure of Food Articles in Boston "Market Limits." Local boards of health, subject to the approval of the department of public health, may make and enforce reasonable rules and regulations as to the conditions under which all articles of food may be kept or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before such a board of health submits

such rules and regulations to said department for approval, said board shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing in a newspaper published in such town. Any person affected by such rules and regulations, in the form in which they are presented to said department for approval, may appeal to said department for a further hearing, and said department shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner above set forth. The department of public health may, from time to time, review such rules and regulations and if, in the opinion of the department such rules and regulations have become no longer practical or reasonable, the department may declare such rules and regulations null and void. The local boards of health may then revise the rules and regulations and submit the revision for approval to the department in the manner described above. No regulations adopted in accordance with this section shall be construed as preventing the exposure of food articles for sale at retail in the Boston "market limits", as defined in the ordinances of Boston, on Saturdays or on the day immediately preceding any holiday observed in Boston, but no area in said "market limits", where food articles on June sixth, nineteen hundred and fourteen were not allowed to be exposed for sale at retail on these days, shall be occupied for the exposure of food articles without a permit from the board of health.





## INSPECTION AND SALE OF FOODS, DRUGS AND VARIOUS ARTICLES

(Chap.94) See page 68, in place of Section 152A)

**SECTION 152A. SALE AND TRANSPORTATION OF POULTRY.** No person shall engage regularly in the business of buying or selling poultry which is to be sold or used for food unless he has a license from the commissioner of agriculture, the fee for which shall not exceed two dollars, and has filed a surety bond with said commissioner in accordance with the provisions of section one hundred and fifty-two D. Such license shall expire on December thirty-first of the year or part thereof for which issued and may be revoked by the commissioner for cause and after a hearing. The commissioner may make suitable rules or regulations governing the issue of such licenses. The licensee shall affix or cause to be affixed to each vehicle used in the business of buying or selling poultry as aforesaid a certified copy of such license in which such vehicle shall be particularly described. The provisions of this section shall not require the licensing of any merchant who does not go from place to place buying or selling poultry nor of any producer.

The word "merchant", as used in this section, shall include any wholesaler, jobber, commission merchant or retailer dealing in poultry who has an established place of business.

1934, 296

1935, 157§1

1949, 446§1

(See page 68, after Section 152C)

**SECTION. 152D. LICENSEES MUST BE BONDED.** Before a license may be issued as provided in section one hundred and fifty-two A, the applicant for a license shall file with the commissioner of agriculture, hereinafter in this section called the commissioner, a statement of business done during the preceding calendar year, and such other information as may be required by the commissioner on forms to be provided by him. The commissioner shall require

the person applying for or holding such license, to file in his office a good and sufficient surety bond, executed by a surety company authorized to do business within this commonwealth. The amount of such bond shall be determined by the commissioner, and shall be conditioned upon the faithful compliance by the licensee with the provisions of this section, and upon the payment in accordance with the agreement or contract of all amounts due to producers for poultry delivered to or purchased by the licensee during the license year. The bond shall be satisfactory to and approved by the commissioner. Upon default by the licensee in any of the conditions of his bond, if there is reason to believe that the licensee owes for poultry purchased or received from producers, the commissioner shall give reasonable notice to all such producers to file verified claims with him, and may, if he deems it advisable, fix a limit of time within which such claims may be filed. The commissioner shall examine claims so filed and shall certify the amounts determined by him to be due thereon. The commissioner may bring an action upon the bond, and for the purpose of such action, the certificate determining the amount due shall be prima facie evidence of the facts therein stated. If the sum recovered in any such action is not sufficient to pay all claims finally determined, then it shall be divided pro rata among them. No suit or action against the surety on any such bond shall be brought unless a written claim shall have been filed within one year of the close of the license year in which the transaction complained of took place.

The licensee shall from time to time, when and as required by the commissioner, make and file with the commissioner a verified statement of his disbursements during a period to be prescribed by the commissioner, which shall contain the names of the producers from whom poultry was received or purchased by the licensee, and the amount due to the producers. If it appears from such statement, or from facts otherwise ascertained by the commissioner, that the security afforded by the bond to producers



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## INSPECTION AND SALE OF FOODS, DRUGS AND VARIOUS ARTICLES

delivering or selling poultry to such licensee does not protect such producers to the extent intended by this section, the

commissioner may require such licensee to give an additional bond in a form to be determined by the commissioner.

1949, 446§2

product to which has been added any sulphur dioxide or compound thereof, except beef sausage made of fresh beef and enclosed in casings, which contains sulphur dioxide or compound thereof not in excess of 1-10 of 1%, when calculated as anhydrous sodium sulphite, if contained in a package which has conspicuously labelled on the outside thereof in not less than eight point type the following:—"contains not more than 1-10 of 1% sodium sulphite," shall be punished by a fine of not less than fifteen nor more than one hundred dollars.

1933, 116.

1933, 311.

1945, 165.

#### CANNED GOODS AND MOLASSES.

**SECTION 154. Canned Goods to be labelled.** Canned articles of food shall not be offered for sale unless marked to indicate the grade or quality thereof and the name and address of the person who packed or sells them.

1897, 344, § 4.

R. L. 75, § 22.

G. L. 94, § 154.

**SECTION 155. Marking of Canned Soaked Goods and Molasses.** All canned articles of food which have been prepared from dry products and have been soaked before canning shall be plainly marked by an adhesive label having on its face the word "soaked" in letters of legible type not smaller than two line pica. All cans, jugs and other packages containing molasses shall be plainly marked by an adhesive label having on its face in the English language in letters of the size and description aforesaid the name and address of the person who made and prepared the same together with the name and quality of the ingredients thereof.

1897, 344, § 5.

R. L. 75, § 23.

1910, 523, § 2.

**SECTION 156. Sale of Kosher Food.** Whoever falsely stamps or labels any can, jar or other package containing fruit or food of any kind, or permits such stamping or labelling or violates either of the two preceding sections, or whoever sells or exposes for sale any meat or meat product or any food containing meat ingredients or prepared with meat substance or meat fat and falsely represents the same to be kosher or as having been prepared in accordance with the orthodox Hebrew religious requirements either by direct statements, orally or in writing, or by the display of the word "kosher" in any language or by the display of any sign or mark in simulation of such word, or by the display of any insignia, six-pointed star or any mark which might reasonably be calculated to deceive or lead a reasonable person to believe that a representation is being made that the food sold is kosher or prepared in accordance with the orthodox Hebrew religious requirements, or whoever sells or exposes for sale both kosher and non-kosher meat or meat products or food containing meat ingredients or prepared with meat substance or meat fat, and at the same time displays a sign on his door or window or anywhere in front of his place of business where such food products are sold bearing the word "kosher" in any language or any sign or mark in simulation of such word or of any insignia, six-pointed star or any mark which might reasonably be calculated to lead a reasonable person to believe that the food sold in such

place is kosher or prepared in accordance with the orthodox Hebrew religious requirements, and who fails to display on his window-signs and all display advertising in block letters at least four inches in height "non-kosher food also sold here", shall be punished by a fine of not less than twenty-five nor more than five hundred dollars; and whoever knowingly sells such goods so falsely stamped or labelled shall be punished by a fine of not less than ten nor more than one hundred dollars.

This section shall be enforced by the local board of health and for such purpose any person designated by it shall have the right to enter at any reasonable time during business hours upon premises where food represented to be kosher is sold or exposed for sale and inspect such food.

1882, 263, § 7.  
1897, 344, § 6.  
R. L. 75, § 24.

1905, 236.  
1906, 305.  
1913, 795.

1916, 58.  
G. L. 94, § 156.  
1929, 86.

#### ICE.

**SECTION 157. Sale of Ice at Retail regulated. Penalty.** Whoever, being engaged in the business of selling ice at retail, and not engaged in the delivery of the same under a contract, refuses to sell from any place or vehicle engaged in the regular distribution of ice at retail a piece of ice at the fair value thereof to any person other than an ice dealer, shall, if such person tenders in payment therefor the amount of five cents or any multiple thereof not more than fifty cents in legal money of the United States, be punished by a fine of not more than one hundred dollars.

1900, 443.

R. L. 57, § 44.

1918, 257, § 230.

1919, 5.

G. L. 94, § 157.

1920, 2.

**SECTION 158. Ice Dealers to have Scales and to weigh Ice. Penalty.** A dealer in ice, who refuses or neglects to provide scales for each vehicle used by him for the retail delivery of ice, or who neglects to furnish to the sealer of weights and measures of each city or town in which he conducts business a list of the current prices of ice sold by him at retail, shall be punished by a fine of not more than fifty dollars.

1890, 276, §§ 1, 3.

R. L. 57, § 45.

1918, 257, § 231.

1919, 5.

1920, 2.

G. L. 94, § 158.

1926, 122, § 1.

**SECTION 159. Penalty for Refusal to weigh Ice.** Whoever having charge of the retail delivery of ice from a vehicle neglects to keep conspicuously posted upon each side of the vehicle the current retail prices of ice sold by him, or refuses or neglects to sell the same by weight, or refuses to weigh the same upon request of the purchaser, shall be punished by a fine of not more than fifty dollars.

1890, 276, § 2.

R. L. 57, § 46.

1918, 257, § 232.

1919, 5.

1920, 2.

G. L. 94, § 126.

1926, 122, § 2.

Op. A. G. 1932.

**SECTION 160. Impure Ice.** The department of public health, upon written complaint of not less than twenty-five consumers of ice cut from any pond or stream and sold or held for sale, alleging that said ice is impure and injurious to health, after notice to the parties interested of the time and place appointed for the hearing, and after hearing



said parties, may make such orders relative to the sale of said ice as in its judgments the public health requires.

1886, 287, § 1. 1914, 792, § 1. G. L. 94, § 160.  
R. L. 75, § 59. 1919, 350, § 96.

**SECTION 161. Enforcement of Orders of Department of Public Health.** Orders made under the preceding section shall be served upon any person selling or offering for sale impure ice, and may be enforced in equity by the supreme judicial or superior court.

1886, 287, §§ 2, 3. R. L. 75, § 60. G. L. 94, § 161.

**SECTION 162. Appeal from such Order.** Whoever is aggrieved by any order made under section one hundred and sixty may appeal therefrom in the manner prescribed by section one hundred and forty-seven of chapter one hundred and eleven, and shall be subject to sections one hundred and forty-eight and one hundred and forty-nine of said chapter, and the court may award costs in its discretion.

1886, 287, § 3. R. L. 75, § 61. G. L. 94, § 162.

### VINEGAR.

**SECTION 163. Adulteration of Vinegar defined.** Vinegar is hereby defined as being the result of alcoholic and subsequent acetous fermentation of natural fruit juices or vegetable products. Vinegar shall contain no added or artificial coloring matter, and shall contain not less than four grains of acetic acid in each one hundred cubic centimeters. If vinegar contains any added or artificial coloring matter, or less than the required amount of acidity, or if it is other than the product of alcoholic and subsequent acetous fermentation of natural fruit juices or vegetable products, it shall be deemed to be adulterated.

1884, 307, § 2. 1911, 600, § 2. 1918, 145.  
1885, 150. 1915, 239. G. L. 94, § 163.  
R. L. 57, § 67. 1916, 189. 1922, 524.

**SECTION 164. Methods of Analysis, how determined and published.** The methods for the examination of vinegar shall be those adopted by the Association of Official Agricultural Chemists. When no such methods are applicable, such additional methods as are approved by the department of public health and published in its bulletin shall be employed.

1915, 239. 1918, 145. G. L. 94, § 164.  
1916, 189. 1919, 350, § 96. 1922, 206.

**SECTION 165. Cider Vinegar, Compound Vinegar, etc. Containers to be marked. Penalty.** No manufacturer or producer of, or wholesale dealer in, vinegar shall, by himself or by his servant or agent, use a cask, barrel or other container for the sale, offering for sale, exchange or delivery of vinegar, or have such vinegar in possession in any cask, barrel or other container with intent to sell, offer for sale, exchange or deliver such vinegar therein, unless the container is plainly marked with the name and place of business of such manufacturer, producer or wholesale dealer, the kind of vinegar contained therein and the substances from which it is made and unless the following additional requirements as to the marking and labelling of the container are complied with:—If the vinegar is cider vinegar diluted to legal strength, the container shall be distinctly and

conspicuously labelled, "Diluted to Legal Strength" or by other like words indicating such fact. Each compound, mixture or blend of vinegar shall be marked with the word "compound" or "mixture", together with a statement of its constituents and the percentage of each constituent. The principal label, including the word "compound" or "mixture", if used on vinegar in wooden packages shall be in Roman letters not less than one inch high, properly spaced and in straight parallel lines with no more than two inches of space between each line. The marking of vinegar in other containers than wooden packages shall be governed by sections one hundred and eighty-six and one hundred and eighty-seven. Violation of any provision of this section shall be punished by a fine of not more than one hundred dollars. This section shall not apply to undiluted cider vinegar.

1911, 600, § 3. G. L. 94, § 165. 1931, 289.  
1915, 158. 261 Mass. 86.

**SECTION 166. Collection of Samples of Vinegar, etc., for Analysis.** The collection of samples of vinegar, as authorized by section three hundred and four, shall be made under the direction and supervision of the department of public health or by local boards of health. Samples may be purchased in the open market, and the stencillings, tags, brands or other markings upon the container shall be noted. Samples shall be divided into two substantially equal parts of at least sufficient volume to permit of a proper analysis as required by law, and at the time of the taking of the samples there shall be delivered to the owner or other person from whom the vinegar is taken one of the two above mentioned parts properly labelled with identifying marks and sealed with a seal, provided for that purpose, and a receipt therefor shall be given to the inspector or collector.

1917, 193, § 1. 1919, 350, § 96. G. L. 94, § 166.

**SECTION 167. Examination of Samples, etc.** Samples of vinegar taken under authority of law shall be examined by the department of public health or by boards of health of towns. If it then appears that any sample is misbranded or adulterated, the department of public health, or the board of health of a town, as the case may be, need not cause formal complaint to be entered at once, but shall grant the opportunity for a hearing under section one hundred and eighty-nine.

1918, 137. 1919, 350, § 96. G. L. 94, § 167.

**SECTION 168. Penalty for Possession of Imitation, etc., Seal.** Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector or other officer engaged in the inspection of vinegar, and whoever changes or tampers with a sample taken or sealed as provided in section one hundred and sixty-six, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both.

1917, 193, § 2. G. L. 94, § 168.

**SECTION 169. Enforcement of Penalties.** Each officer or person whose duty it is to enforce the laws relating to food and milk, shall enforce the laws



relating to vinegar, and all laws relating to food shall apply to vinegar so far as they are applicable.

1880, 113, § 2.  
P. S. 60, § 71.  
1883, 257, § 2.

1884, 307, § 3.  
R. L. 57, § 69.  
1911, 600, §§ 4, 5.

G. L. 94, § 169.  
6 Op. A. G. 257.

**SECTION 170. Penalty for manufacturing, selling, etc., Deleterious Vinegar.** Each person who manufactures, offers or exposes for sale any vinegar found upon proper tests to contain any preparation of lead, copper, sulphuric acid or other ingredient injurious to health, shall be punished by a fine of not less than one hundred dollars.

1880, 113, § 2.  
P. S. 60, § 70.

R. L. 57, § 63.

G. L. 94, § 170.

**SECTION 171. Penalty for selling, etc., Adulterated Vinegar.** Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession with intent so to do, or exposes or offers for sale or exchange adulterated vinegar, or whoever labels, brands or sells as cider vinegar or as apple vinegar, any vinegar not the exclusive product of the alcoholic and subsequent acetous fermentation of the pure juice of fresh apples, shall be punished by a fine of not more than one hundred dollars.

1880, 113, § 1.  
P. S. 60, § 69.  
1883, 257, § 1.

1884, 307, §§ 1, 4.  
R. L. 57, § 66.

1911, 600, § 1.  
G. L. 94, § 171.

**SECTION 172. Standards for Barrels; for Hogsheads.** The barrel shall contain thirty-one and one half gallons and the hogshead two barrels containing malt beverages shall contain thirty-one gallons and that with respect to such barrels and fractional parts thereof a variation or tolerance of three per cent over and under the standard capacity shall be permitted.

1894, 198, § 2.  
1914, 525.

R. L. 62, § 2.

1939, 122.

#### ADULTERATION AND MISBRANDING OF FOOD AND DRUGS.

**SECTION 186. Adulteration of Drugs and Food defined.** For the purposes of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, an article shall be deemed to be adulterated:—

In the case of a drug:

(1) If a drug sold under or by a name recognized in any official compendium differs from the standards of strength, quality or purity as determined by the test, if any, laid down in such official compendium at the time of investigation; provided, that no drug defined in an official compendium shall be deemed to be adulterated hereunder if the standard of strength, quality or purity thereof is plainly stated upon the bottle, box or other container thereof delivered to the customer, although such standard may differ from that determined by the test, if any, laid down in the official compendium.

For the purposes of section one hundred and eighty-six to one hundred and ninety-five, inclusive, the term "official compendium" shall mean the official United States pharmacopoeia, the official homeopathic pharmacopoeia of the United States, the official national formulary, or any supplement to any of them. For the purposes of these sections to the term "drug" shall also mean and include all medi-

cines, preparations, substances and mixtures of substances intended to affect the structure or any function of the body of men or other animals.

(2) If its strength or purity falls below the professed standard, or quality under which it is sold.

(3) If it consists in whole or in part of any filthy, putrid or decomposed substance.

(4) If it has been prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.

(5) If it bears or contains, for purposes of coloring only, a coal tar color other than one from a batch which has been certified in accordance with the provisions of the Federal Food, Drug and Cosmetic Act and amendment thereto.

(6) If any substance has been mixed or packed therewith so as to reduce its strength, quality or purity, or if any substance has been substituted wholly or in part therefor.

In the case of food:

(1) If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

(2) If any substance has been substituted wholly or in part for the article.

(3) If any valuable constituent of the article has been wholly or in part abstracted.

(4) If damage or inferiority has been concealed in any manner.

(5) If it bears or contains any paraffin or any non-nutritive ingredient or any added poisonous or deleterious mineral substance or other ingredient which is unsafe within the meaning of the regulations promulgated by the department of public health for the enforcement of sections one hundred and eighty-six to one hundred and ninety-five; provided, that this paragraph shall not apply to any food containing saccharin, if not specifically prohibited by law, prepared and sold under such regulations as the department of public health shall prescribe.

(6) If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal which is unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

(7) If the carcass or parts of the carcass of any animal shall be inflated with gas or air.

(8) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(9) If it falls below the standard of purity, quality or strength which it purports or is presented to possess.

(10) If it bears or contains a coal tar color other than one from a batch that has been certified in accordance with the provisions of the Federal Food, Drug and Cosmetic Act and amendments thereto.

(11) If it contains any mineral oil or monochloro-acet acid provided, that an amount of mineral oil not exceeding four tenths of one per cent may be permitted in foods when such mineral oil is present solely as the result of its use in necessary and established manufacturing processes and not as an ingredient of food, as may be provided by the regula-



tions of said department; and provided, further, that said department may by regulation make such other exemptions in the case of foods containing mineral oil if such foods are manufactured and sold exclusively for use in established commercial manufacturing processes.

(12) If it is confectionery, it shall also be deemed to be adulterated if it bears or contains any alcohol or non-nutritive article or substance except harmless flavor, or harmless resinous glaze not in excess of four tenths of one per cent, refined petroleum jelly or refined mineral oil not in excess of four tenths of one per cent, harmless natural wax not in excess of four tenths of one per cent, harmless natural gum and pectin; provided, that if the confectionery contains more than one of the substances limited as herein referred to, the total quantity of such substances individually or collectively shall not exceed four tenths of one per cent; and, provided further, that this paragraph shall not apply to any confectionery by reason of its containing less than one half of one per cent by weight of alcohol derived solely from the use of flavoring extracts; and, provided further, that this paragraph shall not apply to any chewing gum by reason of its containing harmless non-nutritive masticatory substances.

1882, 268, § 8.

1884, 289, §§ 5, 7.

1897, 844, § 8.

1901, 341.

R. L. 75, § 18.

1910, 528, § 1.

1913, 265; 272.

1917, 208, §§ 7, 12.

G. L. 94, § 186.

1948, 598.

1928, 166.

217 Mass. 432.

236 Mass. 451.

240 Mass. 437.

244 Mass. 167.

304 Mass. 453.

6 Op. A. G. 405.

**SECTION 187. "Misbranded." Term defined when applied to Drugs and Food. When not to be deemed Adulterated, etc.** The term "misbranded" as used in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall apply to each drug, or article of food, or article which enters into the composition of food, the package or label of which bears any statement, design or device regarding such article or the ingredients or substance contained therein, which is false or misleading in any particular, and also to any food or drug product which is falsely branded as to the state or country where it was manufactured or produced. The word "label" as used herein shall include all written, printed, or graphic matter upon any article or any of its containers or wrappers or accompanying such article.

For the purposes of said sections an article shall also be deemed to be misbranded:—In the case of a *drug*:

(1) If it is an imitation of or offered for sale under the name of another article.

(2) If the contents of the package as originally put up have been removed, in whole or in part, and other contents placed therein.

(3) If its package or wrapper bears or contains any false or misleading statement, design, or device regarding the curative or therapeutic effect of such article or of any of the ingredients or substances contained therein.

(4) If in package form it fails to bear a label containing the name and place of business of the manufacturer, packer or distributor.

(5) If it is for use by men and contains any quantity of the narcotic or hypnotic substances alpha-

eucaïne, barbituric acid, beta-eucaïne, bromal, cannabis, carbromal, chloral, coca, cocaine, heroin, marihuans, morphine, opium, paraldehyde, peyote or sulphonmethane; or any chemical derivative of any such substance, unless its label bears the name and quantity or proportion of such substances or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(6) If it is a drug and is not designated solely by a name recognized in an official compendium, unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, fluocides, mercury, ouabain, strophanthin, strychnine, thyroid or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions may be established by regulations promulgated by the department of public health, which conform to the regulations promulgated under the Federal Food, Drug and Cosmetic Act for the enforcement of federal law.

(7) If its label fails to bear adequate directions for use and such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health or against unsafe dosage or methods or duration of administration or application in such manner and form as are necessary for the protection of the users.

(8) If it is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

The labeling provisions of this section shall not apply to the compounding and dispensing of drugs on the written prescription of a physician, a dentist or a veterinarian.

In the case of food:

(1) If it is in imitation or semblance of any other food; provided that this paragraph shall not apply to an imitation of a food for which a standard of quality or identity has been adopted under the provisions of section one hundred and ninety-two, nor to an imitation of any other food for which no standard has been established by law or regulation, if its label bears in type of uniform size and prominence, the word "imitation", and, immediately thereafter the name of the food imitated; and, provided further, that this paragraph shall not be construed to permit the imitation of any food for which a standard has been established by law, other than as specifically provided herein.

(2) If its label or labelling is false or misleading in any particular.

(3) If its container is so made, formed or filled as to be misleading.

(4) If it is in package form and fails to bear a label, tag or other marking containing the name and place of business of the manufacturer, packer or distributor.



(To be inserted in place of paragraph 8 of Section 187, on Page 72)

(3) If it is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

The labeling provisions of this section shall not apply to the compounding and dispensing of drugs on the oral or written prescription, as hereinafter defined, of a physician, dentist, or veterinarian.

1954, 577, s1.

(To be inserted at the end of Section 187, on Page 73.)

For the purposes of this section and section one hundred and eighty-seven A, the following terms shall have the following meanings:-

"Oral prescription", that prescription of a physician, dentist or veterinarian which has been verbally transmitted to a pharmacist by said physician, dentist or veterinarian or his expressly authorized representative and immediately recorded by said pharmacist on a regular prescription form, and which contains the name and address of the prescriber, and the name of the expressly authorized representative, if any, the date of the prescription, the name and amount of the drug prescribed, the serial number given to the prescription by the pharmacist dispensing the same, the name of the pharmacist receiving the prescription, the name of the patient unless a veterinary prescription, the directions for use and any cautionary statements if stated in the prescription, and the number of times to be refilled.

"Written prescription", that prescription which has been issued by a physician, dentist or veterinarian and bears the signature and address of the prescriber, the date of the prescription, the name and the amount of the drug prescribed, the name of the patient, directions for use, the number of times to be refilled, and any cautionary statements needed.

"Pharmacist", a person duly registered under chapter one hundred and twelve and actively engaged as a practitioner or employed in an established and licensed place of business for the sale, compounding and dispensing of drugs.

1954, 577, s2.

(To be inserted in place of Section 187A, on Page 73.)

Section 187A. For the purposes of this section, the term "harmful drug" shall mean and include any and all drugs upon which the manufacturer or distributor has, in compliance with federal law and regulations, placed the following:- "Caution - Federal law prohibits dispensing without prescription."

No person shall sell or offer for sale at retail or dispense or give away any harmful drug to any person other than a physician, dentist or veterinarian, except upon oral or written prescription of a physician, dentist or veterinarian or his expressly authorized representative. No such oral or written prescription for a harmful drug shall be refilled unless the original prescription provides for such refilling or unless such refilling is authorized by the prescriber.

Whenever a physician, dentist or veterinarian prescribes a harmful drug by an oral prescription, the physician, dentist or veterinarian shall within a period of not more than seven days thereafter deliver a written prescription to the pharmacist to whom said oral prescription was transmitted. Any physician, dentist or veterinarian who violates this provision shall be punished by a fine of not more than twenty-five dollars for each violation.

No person shall dispense any drug upon an oral or written prescription in a container which does not bear a label which gives the name and address of the druggist, the serial number of the prescription, the date of the filling of the prescription, the name of the prescriber, the name of the patient, unless a veterinary prescription, the directions for use and cautionary statements if any stated in the prescription.

No manufacturer, wholesaler, jobber or dealer in drugs other than a retail pharmacist shall sell or offer for sale a harmful drug unless the container bears a label securely attached thereto stating conspicuously in printed words the common or usual name of the harmful drug and the quantity or proportion thereof, and no such manufacturer, wholesaler, jobber or dealer in drugs shall sell, offer for sale, or deliver any such harmful drug except to a licensed drug wholesaler, licensed hospital or sanitarium, governmental hospital or sanitarium, licensed



clinic, pharmacist, registered physician, dentist or veterinarian, superintendent or official in immediate charge of a college or scientific institution.

A physician, dentist or veterinarian may personally administer any harmful drug at such time and under such circumstances as he, in good faith, and in the legitimate practice of medicine, believes to be necessary for the alleviation of pain and suffering or for the treatment or alleviation of disease.

This section shall not apply to the sale or dispensing of any harmful drug known to be generally used in the treatment of poultry or of animals other than man, either alone or in combination with feeding materials or other ingredients, provided such drug is sold in good faith for the treatment of poultry or animals other than man, and bears a label stating that it is to be used for such purposes only.

Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of any law with respect to narcotic drugs as provided by sections one hundred and ninety-seven to two hundred and seventeen, inclusive.

Except as otherwise provided herein, whoever violates any provision of this section or any rule or regulation authorized hereunder shall be punished by a fine of not more than one thousand dollars, or by imprisonment in jail or house of correction for not more than one year, or both.

The department of public health and the board of registration in pharmacy shall enforce the provisions of this section, and said department and said board, acting jointly, may make such rules and regulations as they deem necessary for the proper enforcement thereof.

1954, 577, s 3.

NOTE: The penalty prescribed in the third paragraph of section one hundred and eighty-seven A of chapter ninety-four of the General Laws, as appearing in section three of this act, for a violation of said paragraph shall not become effective until January first, nineteen hundred and fifty-six.

1954, 577, s 4.

(5) If it purports to be or is represented as a food for which a definition and standard of identity has been established and it fails to conform to such definition and standard.

(6) If it purports to be or is represented as a food for which a standard of quality has been prescribed by the department of public health and its quality falls below such standard, unless its label bears a statement as to its true nature.

(7) If the package containing it or its label bears any statement, design or device regarding the ingredients or the substances contained therein which is false or misleading in any particular.

(8) If it is not a food for which a definition and standard of identity has been prescribed by regulations of the department of public health, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient in order of predominance except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings, without naming each; provided, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department of public health, which regulations shall be uniform with those now or hereafter adopted for enforcement of the federal law.

1901, 396, §§ 1-3, 5.  
R. L. 75, § 19.  
1906, 386, § 2.  
1907, 259, § 3.

1917, 208, §§ 8, 12.  
G. L. 94, § 187.  
1948, 598, § 2.  
244 Mass. 167.

292 Mass. 378.  
3 Op. A. G. 180.  
6 Op. A. G. 405.  
Op. A. G. 1929.

A container with the word "Guernsey" in connection with milk, when the milk is inferior to the product known as Guernsey milk and not, in fact, obtained from Guernsey cattle, may be prosecuted under the provisions of G. L., c. 94, § 187.

Op. A. G. 1929.

**SECTION 187A. Sale of Harmful Drugs.** No person shall sell or offer for sale at retail or dispense or give away any harmful drug as defined herein to any person other than a physician, dentist or a veterinarian, except on the written prescription of a physician, dentist or veterinarian. No prescription for a hypnotic or somnifacient drug or any other harmful drug shall be renewed or refilled by a pharmacist if the prescription bears any indication that it is not to be renewed or refilled.

No manufacturer, wholesaler, jobber or dealer in drugs, other than a retail pharmacist, shall sell or offer for sale a harmful drug unless the container bears a label securely attached thereto stating conspicuously in printed words the common or usual name of the harmful drug and the quantity or proportion thereof.

For the purposes of this section, the term "harmful drug" shall mean and include any of the following drugs and any derivatives or active principles, preparations, compounds, or mixtures thereof having similar harmful actions: amidopyrine, amphetamine (benzedrine) except those preparations for nasal and other external use, desoxyephedrine, cantharides—except for external use in combination

with other ingredients unfit for internal administration, cinchophen, digitalis, cinitrocresol, dinitrophenol, ergot, estrogen, natural or synthetic—except for external use in combination with other ingredients unfit for internal administration, barbituric acid, chloralhydrate, paraldehyde, thyroid, pituitary, oil of croton, oil of penn-royal, oil of savin, and oil of tansy.

The department of public health and local boards of health and the board of registration in pharmacy shall enforce this section, and whoever violates any provision of this section or any rules or regulations made hereunder, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in jail or house of correction for not more than one year, or both. This section shall not apply to the sale or dispensing of any harmful drug now or hereafter known to be generally used in the treatment of animal or poultry diseases, either alone or in combination with feeding materials or other ingredients, when such drug is sold and labeled for use in the treatment of animal or poultry diseases only.

1948, 598, § 3.

**SECTION 188. Collection of Samples of Food, etc.** The collection of samples under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, and three hundred and four may be made by authorized agents of the department of public health or of boards of health of towns. Samples may be purchased in the open market, and if in bulk and the sample is taken from the original package, carton, wrapper or other container in the presence of such authorized agent, the marks, brands or tags upon such container, and the accompanying printed or written matter shall be noted by such agent, who shall also note the name of the vendor by whom the sale was made, together with the date of the purchaser. If practicable, samples shall be collected in duplicate, or divided into two substantially equal parts, and each part shall be labelled with identifying marks. One of such parts or samples shall be delivered to the person from whom they were taken, or, if a guaranty has been given, such part or sample shall be sent to the guarantor. The other part or sample shall be sent to the laboratory of the department or board taking the sample, if said board maintains a laboratory. Parts of samples divided as hereinbefore provides shall be sealed by said agent, at the time of the taking thereof, as provided by the regulations of the department of public health, with a seal provided for that purpose. Whenever it is impracticable either to collect more than one sample or to divide the same, such sample shall be sent to the laboratory of the department or board taking the sample, if said board maintains a laboratory.

1884, 289, § 8.  
R. L. 75, § 21.  
1910, 416, § 1.

1914, 792, § 1.  
1917, 208, §§ 4, 12.  
1919, 350, § 96.

G. L. 94, § 188.  
292 Mass. 378.  
6 Op. A. G. 405.

**SECTION 189. Examination of Samples, by whom made, etc. Complaints.** Examination of samples of food and drugs in order to determine by analysis or test whether such articles are adulterated or misbranded within the meaning of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be made under the direction and super-



vision of the department or board taking such samples as provided in the preceding sections; and if it shall appear from such examination that any of the samples are so adulterated or misbranded, the commissioner of public health or the local board of health need not cause formal complaint to be entered at once, but shall in the case of misbranding, and may in the case of adulteration, cause reasonable notice thereof, together with a copy of the results of such analysis or test, to be given to the party from whom the samples was obtained or to the party believed to be responsible for the condition of the sample, to the guarantor, if any, and to the party, if any, whose name appears upon the label as manufacturer, packer, producer, wholesaler, retailer, or other dealer. Before any formal complaint is entered, any person so notified shall be given an opportunity to be heard before any person designated by the commissioner of public health or local board of health taking the sample, under such rules and regulations as the department of public health prescribes. Such notice shall specify the date, hour and place of hearing, and the parties interested therein may appear in person or by attorney. If it is decided that the party whose name appears upon the label, or the guarantor, shall be notified, and such party or guarantor resides without the commonwealth, the notice shall be sent by mail to such address as, with due diligence, may be obtained. If after such opportunity to be heard it appears that any provision of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, has been violated, the department of public health or local board of health may make or authorize to be made a formal complaint to a court or justice having jurisdiction in such cases, but no evidence of the result of such analysis or test shall be received if the agent described in the preceding section has refused or neglected to seal and deliver the sample, or part thereof, if and as required in the preceding section.

6 Op. A. G. 405.  
1910, 416, § 1.  
1917, 208, §§ 5,  
12, 13.

1919, 350, § 96.  
G. L. 94, § 189.  
1948, 598, § 4.

1925, 42.  
6 Op. A. G. 405.  
289 Mass. 378.

**SECTION 189A. Tagging of Adulterated or Misbranded Food and Drugs.** Whenever the commissioner of public health or his duly authorized agent finds or has probable cause to believe based upon inspection or chemical bacteriological or physical examination, that any food or drug is adulterated or misbranded, he shall affix or cause to be affixed to such article a tag or other appropriate marking, giving notice that such article is or is suspected of being adulterated or misbranded and has been detained or embargoed for a period of ten days in the case of food and for a period of fifteen days in the case of drugs, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by said commissioner, his agent, or the court; provided, any such article may at the discretion of the manufacturer or claimant to be removed from public display but shall not be removed from the immediate premises. The claimant shall be authorized to destroy the article so detained if such article is destroyed under the supervision of an agent of said

commissioner. When an article detained or embargoed has been found to be adulterated or misbranded, the commissioner or said agent shall within five days thereafter file a petition in any district or municipal court within whose jurisdiction the article is detained or embargoed for a libel of condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded he shall remove the tag or other marking, thereby permitting its release. If the court finds that a detained or embargoed article is not adulterated or misbranded, he shall remove the tag or other marking, thereby permitting its release. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall after entry of the decree be destroyed at the expense of the claimant thereof under the supervision of such agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court after entry of the decree and a good and sufficient bond conditioned that such article shall be so labeled or processed has been executed by the claimant, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of said commissioner. Such bond shall be returned to the claimant of the article on representation to the court by the department of public health that the article is no longer in violation of the law. Whoever removes or disposes of an article of food or drug which has been detained or embargoed as provided herein without permission for such removal or disposal by said commissioner, his agent or the court shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than six months.

1948, 598, § 5.

**SECTION 190. Penalty on Manufacturer, etc.** Whoever manufactures any article of food or any drug which is adulterated or misbranded within the meaning of sections one hundred and eighty-six and one hundred and eighty-seven, or which does not comply with the rules, regulations and standards provided in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be punished by a fine of not less than fifteen nor more than five hundred dollars or by imprisonment for not more than six months.

1882, 263, § 1.  
1897, 344, § 1.  
R. L. 75, § 16.

1903, 367.  
1917, 208, §§ 1, 12.

G. L. 94, § 190.  
6 Op. A. G. 405, 406.

**SECTION 191. Penalty for Delivery, etc., of Adulterated, etc., Articles.** Except as otherwise provided in sections one hundred and eighty-six to one hundred and ninety-six, inclusive, whoever for pay or otherwise delivers or offers to deliver to any person any article of food or drug adulterated or misbranded, or which does not comply with the rules, regulations and standards provided for in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall in the case of misbranding or non-compliance with said rules, regulations and standards be punished by a fine of not more than two hundred dollars, and shall in the case of adulteration be punished by a fine of not less than



twenty-five nor more than two hundred dollars; but no article shall be deemed misbranded or adulterated under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, or not to comply with the rules, regulations and standards provided for in said sections, if it is intended for export to any foreign country and is prepared or packed according to the specifications or directions of the foreign purchaser; provided, that no substance is used in the preparation or packing thereof in violation of the laws of the foreign country to which the article is intended to be shipped; but if the article is sold or offered for sale for domestic use or consumption then it shall not be exempt from said sections.

1917, 208, §§ 2, 13. 1924, 228. 292 Mass. 378.  
G. L. 94, § 191. 6 Op. A. G. 405, 406.

**SECTION 192. Rules and Regulations to be adopted, etc.** The department of public health and local boards of health shall enforce sections one hundred and eighty-six to one hundred and ninety-five, inclusive. Said department, after a public hearing, shall adopt and promulgate rules and regulations consistent with said sections and, except as to standards fixed by law, may adopt standards, tolerance and definitions of purity or quality or identity. Such standards, tolerance and definitions shall conform to the standards, tolerances and definitions, if any, of purity or quality or identity adopted or that may hereafter be adopted for the enforcement of the Federal Food, Drug and Cosmetic Act, approved June twenty-fifth, nineteen hundred and thirty-eight (Title 21, U. S. C. 301 et. seq. 52 Stat, 1040 et seq.), or now or hereafter adopted for the enforcement of federal law.

1917, 208, §§ 3, 13. G. L. 94, § 192. 392, 405.  
1919, 350, § 96. 6 Op. A. G. 393, 405. 304 Mass. 452.  
1948, 598, § 6.

**SECTION 193. Prosecutions in Certain Cases forbidden. Guaranty for Protection. Rules and Regulations.** Except as provided in section one hundred and ninety-four, no dealer shall be prosecuted under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, for selling or offering for sale any article of food or drug in the original, unbroken package in which it was received by him if he can establish a guaranty by the wholesaler, jobber, manufacturer or other person residing in the commonwealth from whom he purchased the article to the effect that the same is not adulterated or misbranded within the meaning of the laws of this commonwealth or the Federal Food, Drug and Cosmetic Act, or by the wholesaler, jobber, manufacturer or other person residing without the commonwealth to the effect that the same is not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. Such guaranty, to afford protection, shall contain the name and address of the person making the sale of this article to the dealer, and in that case such person shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under sections one hundred and eighty-six to one hundred and ninety-five, inclusive. If it shall appear that any provision of said sections has been violated, and the party giving said guaranty is without the common-

wealth, no action shall be brought except as is provided therein, but the department of public health or the local board taking the sample shall present the facts to national authorities for their action. The provisions of this section shall not apply in the case of a food or drug subject to deterioration if the court finds that the adulteration has occurred after delivery to, and has resulted from negligence on the part of, the dealer. Under the authority given by section one hundred and ninety-two the department of public health shall adopt rules and regulations which shall be observed by the said department and by local boards of health in ascertaining whether there is such a guaranty which may be relied upon by the dealer.

1907, 259, § 2. 1919, 350, § 96. 3 Op. A. G. 180.  
1911, 289, § 1. G. L. 94, § 193. 6 Op. A. G. 405, 406.  
1914, 792, § 1. 1948, 598, § 7. 304 Mass. 453.  
1917, 208, §§ 9, 12.

**SECTION 194. Dealer establishing Guaranty may be prosecuted, when.** After a sample of an article of food or drug which is adulterated or misbranded has been taken from a person who establishes a guaranty, as provided in the preceding section, and the guarantor resides without the commonwealth, the dealer may nevertheless be prosecuted for a subsequent sale of such adulterated or misbranded article; provided, that the department of public health or local board which took the sample has presented the facts to the proper national authorities for their action, that the person from which the sample was taken has been notified by said department or board that the facts have so been presented, and that such person continues to sell such articles after he has been notified by said department or board as to the particulars of the adulteration or misbranding and warned to desist from further sales or distribution of the articles. Upon conviction in any such case the penalties provided in section one hundred and ninety-two may be imposed.

In case of adulteration, if the department of public health or a board of health in a city having a population exceeding one hundred thousand, finds that the same when analyzed is plainly a gross violation of any of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, or that the article is distinctly injurious to the health of the community, even though the case has not as yet been adjudicated, said department may cause notice of these facts to be published in its monthly bulletin and in such other ways as it establishes by rules and regulations; provided, that the guarantor has been notified and has been afforded an opportunity to be heard as provided in section one hundred and eighty-nine. Said notice shall contain a warning to all dealers to desist from further sale or distribution of such article. Whoever sells such article after said notice and warning shall be amenable, for each subsequent sale, to the penalties provided in section one hundred and ninety-one.

1917, 208, §§ 10, 13. G. L. 94, § 194. 304 Mass. 453.  
1919, 350, § 96. 6 Op. A. G. 405, 406.

**SECTION 194A. Sale or Delivery of Adulterated Shellfish.** In any prosecution in which it is alleged that the defendant for pay or otherwise delivered or offered to deliver to any person shellfish which are



adulterated within the meaning of clause sixth of section one hundred and eighty-six or however, otherwise the offence may be described, it shall be a defense if the defendant shows that such shellfish were taken from an area not designated as contaminated by the department of public health or have passed a shellfish treatment plant approved by said department unless it appears from all the evidence that he knew or ought to have known of such adulteration or that he caused or contributed to the same.

1931, 357.

**SECTION 195. Construction of Certain Sections.** When construing and enforcing sections one hundred and eighty-six to one hundred and ninety-five, inclusive, the act, omission or failure of any officer, agent or other individual acting for or employed by any individual, corporation, company, society or association within the scope of his employment or office, shall in each case be also deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the individual.

1917, 208, §§ 11, 13. G. L. 94, § 195. 6 Op. A. G. 405.

#### SALE AND DISTRIBUTION OF NARCOTIC DRUGS.

**SECTION 197. Definitions.** The following words as used in sections one hundred and ninety-seven to two hundred and thirteen, inclusive, and in section thirty-eight of chapter two hundred and seventy-seven and schedule of forms at end of said chapter, unless the context otherwise requires, shall have the following meanings:

“Druggist”, “apothecary” or “pharmacist”, a person duly registered under chapter one hundred and twelve, and actively engaged as a practitioner, or employed in an established and fixed place of business for the sale, compounding and dispensing of drugs.

“Narcotic drug”, coca leaves, cocaine, alpha or beta eucaine, or any synthetic substitute for them or any salts, compound or derivative thereof except decocainized coca leaves and preparations thereof, opium, morphine, heroin, codeine, or any preparation thereof or any salt, compound or derivative of the same; and subject to section two hundred and six, cannabis (sometimes called marihuana or marijuana), including (a) the dried flowering or fruiting tops of the pistillate plant *cannabis sativa* L., from which the resin has not been extracted, (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted.

“Opium”, “morphine”, “heroin”, “codeine”, “caine,” and “cannabis” (sometimes called marihuana or marijuana), as used in statutes or in complaints or indictments include any synthetic substitute for such drugs or any salts, compounds, derivatives or preparations thereof, except decocainized coca leaves and preparations thereof.

“Physician” or “practitioner or medicine”, “veterinarian” and “dentist”, a person duly registered

and authorized to practice medicine, veterinary medicine and dentistry, respectively.

1917, 275, § 19.  
G. L. 94, § 197.  
1935, 412, § 1.

1943, 305, § 1.  
1943, 305, § 2.

7 Op. A. G. 83.  
See also § 1.

**SECTION 198. Sale and Distribution of Certain Narcotic Drugs regulated.** Except as otherwise provided in sections one hundred and ninety-seven to two hundred and six, inclusive, no person shall sell, furnish, give or deliver any narcotic drug except upon the written order of a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, physician, dentist or veterinarian registered under the laws of the state where he resides, or an incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, or upon the written prescription of a physician, dentist or veterinarian registered as above provided, such order bearing his legal signature, the date of the signature, his office address, the registry number given him under the act of congress approved December seventeenth, nineteen hundred and fourteen, and the name, age and address of the patient for whom it is prescribed. The prescription, when filled, shall show the date of filling and the legal signature of the person filling it, written across the face of the prescription, and the prescription shall be retained on file for at least two years by the druggist filling it. No prescription shall be filled except in the manner indicated therein and at the time when it is received, and the full quantity of each substance prescribed shall be given. No order or prescription shall be either received for filling or filled more than five days after its date of issue as indicated thereon. Each pharmacist who fills a prescription for a narcotic drug shall securely attach to the container thereof a label giving the name and address of the store where the prescription is filled, the date of filling, the name of the person for whom it is prescribed, the name of the physician, dentist or veterinarian who issued it; and the narcotic drug so delivered shall always be kept in its container until used.

No prescription shall be refilled, nor shall a copy of the same be made except for the purpose of record by the druggist filling the same, such record to be open at all times to inspection by the officers of the department of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns; provided, that sections one hundred and ninety-seven to two hundred and thirteen, inclusive, shall not apply to prescription, nor to the sale, distribution, giving, dispensing or possession of preparations or remedies, if such prescriptions do not call for, or such preparations and remedies do not contain, more than two grains of opium or more than one quarter of a grain of morphine, or more than one eighth of a grain of heroin or more than one grain of codeine, in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce; nor shall they apply to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other prepara-



tions containing cocaine or alpha or beta eucaine; provided, that such preparations, remedies or prescriptions are sold, distributed, given, dispensed or held in possession in good faith as medicine and not for the purpose of evading any provision of the last named sections, and only by a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, or a physician, dentist or veterinarian registered as above provided, or superintendent or official in charge of an incorporated hospital, college or scientific institution.

This section shall not apply to a person having in his possession any of the above mentioned articles by virtue of a legal prescription legally issued under any provisions of sections one hundred and ninety-eight to two hundred and ten, inclusive, and not obtained by any false representation made to the physician, dentist or veterinarian issuing it, or to the pharmacist who filled it; nor shall such sections apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves which do not contain cocaine.

1906, 386, §§ 3, 4, 6.	788; 792, § 1.	G. L. 94, § 198.
1908, 307, § 2.	1915, 187, §§ 1,	7 Op. A. G. 33.
1909, 375.	3, 12.	1935, 412, § 2.
1910, 271, § 1; 387,	1917, 275, §§ 1, 22.	Op. A. G. 1935.
§§ 2, 11.	1919, 350, § 96.	Op. A. G. 1940, 51.
1914, 694, §§ 1, 7;	312 Mass. 319.	1948, 478.

**SECTION 198A. Narcotic Drugs, License to Manufacture, etc.** No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the department of public health. This section shall not apply to retail pharmacists registered under the provisions of chapter one hundred and twelve.

1935, 412, § 3.	Op. A. G. 1935.	Op. A. G. 1940, 30.
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**SECTION 198B. Narcotic Drugs, License issued by Department under certain Conditions.** The department of public health may annually issue licenses as required by the preceding section, but no such license shall be issued unless and until the applicant therefor has furnished proof satisfactory to the department of public health: (a) that the applicant is a citizen of the United States and of good moral character or, if the applicant is an association or corporation, that the managing officers thereof are of good moral character, and citizens of the United States, and (b) that the applicant is equipped as to land, buildings and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five years been convicted of a violation which said department finds to have been wilful of any law of the United States, or of any state, relating to opium, coca leaves or other narcotic drugs, or to any person who is a narcotic drug addict. Said department may suspend or revoke any license for cause. Said department may make rules and regulations adequately to carry into effect the duties herein imposed upon it. A fee of ten dollars shall be charged for issuing each such license.

1935, 412, § 3.	Op. A. G. 1935.	Op. A. G. 1940, 30.
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**SECTION 199. Veterinarians, etc., to prescribe only in Certain Cases.** No practitioner of veterinary medicine shall prescribe any narcotic drug for the use of a human being or in such manner that it may be used subcutaneously by such person, nor shall any physician or dentist prescribe, dispense, administer, sell, give or deliver any narcotic drug to any person except when the drug is obviously and in good faith then and there needed for the treatment and cure of a disease or ailment, and not needed for any condition or disease directly due to any drug habit or resulting solely from the failure of an habitual user or narcotic drugs to procure the particular narcotic drug to the use of which he is addicted.

1910, 271, § 2;	1915, 187, §§ 2, 12.	G. L. 94, § 199.
387, § 8.	1917, 275, §§ 2, 22.	7 Op. A. G. 33.
1914, 694, §§ 2,		
7; 788..		

**SECTION 200. Physician may personally administer Narcotic Drug, when.** A physician may personally administer any narcotic drug at such time and under such circumstances as he, in good faith and in the legitimate practice of medicine, believes to be necessary for the alleviation of pain and suffering or for the treatment or alleviation of disease.

1914, 694, § 3.	1917, 275, §§ 3, 22.	7 Op. A. G. 33.
1915, 187, §§ 3, 12.	G. L. 94, § 200.	1940, Op. A. G. 51.

**SECTION 201. Sales to Certain Persons and Institutions regulated.** Subject to section two hundred and sixteen, any licensee under section one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, and any physician, dentist or veterinarian registered under the laws of the state where he resides may sell a narcotic drug to any of the persons aforesaid or to any incorporated hospital, college or scientific institution, but such substances or preparations, excepting such preparations as are included within the exemptions set forth in section one hundred and ninety-eight, shall be sold only upon the written order of such hospital, college or institution, duly signed by its superintendent or official in immediate charge, or upon a written order duly signed by any licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, or physician, dentist or veterinarian registered as above provided, and the order shall state the articles ordered, the quantity ordered and the date. Said orders shall be kept on file in the laboratory, warehouse, pharmacy or store in which they are filled, by the proprietor thereof or his successor, for not less than two years after delivery, and shall at all times be open to inspection by the department of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said department and boards, and by the police authorities and police officers of town.

1906, 386, §§ 3, 5.	788; 792, § 1.	G. L. 94, § 201.
1910, 271, § 1;	1915, 187, §§ 4, 12.	1935, 412, § 2.
387, §§ 4, 11.	1917, 275, §§ 4, 22.	7 Op. A. G. 33.
1914, 694, § 4;	1919, 350, § 96.	

**SECTION 202. Duplicate Orders to be preserved, etc.** Any person or institution mentioned in the preceding section giving an order for any narcotic drug in accordance therewith shall preserve a



duplicate thereof for two years after giving the same. The duplicate shall at all times be open to inspection by the department of public health, the board of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns. The order required by the commissioner of internal revenue under and by virtue of the act of congress approved December seventeenth, nineteen hundred and fourteen, shall be deemed to be a sufficient order to comply with this and the preceding section.

1915, 187, § 5.  
1917, 275, §§ 5, 22.

1919, 350, § 96.

G. L. 94, § 202.

**SECTION 203. False Representations deemed Violations.** Whoever, for the purpose of evading or assisting in the evasion of any provision of sections one hundred and ninety-eight to two hundred and ten, inclusive, falsely represents that he is a physician, dentist or veterinarian, or that he is a manufacturer of or jobber in drugs or wholesale druggist or that he is licensed under sections one hundred and ninety-eight A and one hundred and ninety-eight B, or that he is a pharmacist actively engaged in business as such, or that he is a superintendent or official in immediate charge of an incorporated hospital, college or scientific institution, or a person registered under the act of congress mentioned in the preceding section, or whoever, not being an authorized physician, dentist or veterinarian, makes or alters a prescription or written order for a narcotic drug, or knowingly issues or utters a prescription or written order falsely made or altered, or whoever makes any false representation or statement as to his name, age, address or any other matter, either in writing or orally, to any physician, dentist, pharmacist or veterinarian for the purpose of procuring a prescription for, or the delivery of, a narcotic drug, shall be punished as provided in section two hundred and thirteen. Each prescription or order which is altered, or is obtained by a false representation, shall be void and of no effect.

1914, 694, § 5; 788.  
1915, 187, §§ 6, 12.

1917, 275, §§ 6, 22.  
G. L. 94, § 203.

1935, 412, § 5.

**SECTION 204. Possession of Federal Certificate to be Evidence of Intent.** The possession by any person of a federal certificate issued under and by virtue of the act of congress mentioned in section two hundred and two shall be prima facie evidence of an intent to sell, furnish, give or deliver a narcotic drug.

1915, 187, § 7.

1917, 275, §§ 7, 22.

G. L. 94, § 204.

**SECTION 205. Common Carriers and Certain Officials, etc., exempt.** Sections one hundred and ninety-eight to two hundred and thirteen, inclusive, shall not apply to common carriers engaged in transporting narcotic drugs, or to any employee, acting within the scope of his employment, of any person who is lawfully in possession, for the purpose of delivery of any such drug, or to any person who delivers any such drug, which has been prescribed or dispensed by a physician, dentist or veterinarian registered under the laws of the state where he resides who has been employed to prescribe for the

particular patient receiving such drug, or to a nurse under the supervision of a physician, dentist or veterinarian having possession or control by virtue of his employment or occupation and not on his own account, or to the possession of any of the aforesaid drugs which have been prescribed in good faith by a physician, dentist or veterinarian, or to any United States, state county, municipal, district, territorial or insular officer or official who has possession of any said drugs by reason of his official duties, or to a person who, as an officer or duly appointed agent of any incorporated society for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violations of sections one hundred and ninety-eight to two hundred and thirteen, inclusive.

1910, 387, § 6.  
1915, 187, §§ 8, 11.

1917, 275, §§ 8, 22.

G. L. 94, § 205.

**SECTION 206. Cannabis Indica and Cannabis Sativa.** The provisions of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, except such as require the ordering of narcotic drugs on an official order blank and the keeping of the same on file, and the keeping of the record relative thereto, shall apply to cannabis, except that such provisions shall not apply to prescriptions, preparations or remedies which do not contain more than one half grain of extract of cannabis in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce, nor to liniments, ointments or other preparations containing cannabis which are prepared for external use only.

1915, 187, § 9.  
1917, 275, §§ 9, 22.

G. L. 94, § 206.

1935, 412, § 6.

**SECTION 207. Liability of Manufacturer, etc., limited.** No manufacturer or jobber in drugs, wholesale druggist or registered pharmacist shall be liable to prosecution if he fills any prescription or written order for a narcotic drug in good faith unless he knows or has reasonable cause to suspect that the prescription or order was issued in violation of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, in which event any such sale or delivery of a narcotic drug shall constitute an unlawful sale or delivery of such drug.

1917, 275, § 10.  
G. L. 94, § 207.

7 Op. A. G. 33.

For penalty see § 212.

**SECTION 208. Physicians, Dentists, etc., prohibited from Certain Advertising.** No physician, dentist, or veterinarian, and no druggist or pharmacist, either wholesale or retail, shall solicit by public advertisement or otherwise the application to him for prescriptions for, or sales of, narcotic drugs, nor shall he publicly advertise any treatment the principal element of which consists in the administering, dispensing, furnishing, giving or delivery of a narcotic drug, except that a wholesale druggist or manufacturing pharmacist may advertise in journals and publications intended for circulation among the medical profession and drug trade generally.

1917, 275, § 11.  
G. L. 94, § 208.

7 Op. A. G. 33.

For penalty see § 213.

**SECTION 209. Possession of Certain Instruments regulated. Record of Sales to be kept. Penalty.** No person, not being a physician, dentist, nurse or veterinarian registered under the laws of this com-

## CHAP. 94

(To be inserted in place of Sections 209 and 209A on pages 78 and 79).

Section 209. No person, not being a physician, dentist, nurse or veterinarian registered under the laws of this commonwealth or of the state where he resides, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles herein-after mentioned by reason of his official duties, nurse acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, or a person who has received a written prescription issued under section two hundred and nine A, or a chiropodist or podiatrist who has received from the board of registration in chiropody (podiatry) a certificate stating that upon examination by said board he has been determined to be competent to use hypodermic needles, shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection. No such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, a nurse upon the written order of a physician or dentist, or a person who has received a written prescription issued under section two hundred and nine A, a chiropodist or podiatrist who holds a certificate issued by the board of registration in chiropody (podiatry) as aforesaid, or an employee of an incorporated hospital upon the written order of

its superintendent or officer in immediate charge. A record shall be kept by the person selling such syringe, needle or instrument, which shall give the date of the sale, the name and address of the purchaser and a description of the instrument. This record shall at all times be open to inspection by the department of public health, the boards of registration in medicine, veterinary medicine, chiropody (podiatry), and pharmacy and the board of dental examiners, authorized agents of said department and boards, and police authorities and police officers of towns. Whoever violates any provision of this section shall be punished by a fine or not more than one hundred dollars or by imprisonment in a jail or house of correction for not more than two years, or both.

1954, 226, s 1

Section 209A. A registered physician may issue to a patient under his immediate charge a written prescription to purchase any of the instruments specified in section two hundred and nine. Such prescription shall contain the name and address of the patient, the description of the instrument prescribed and the number of instruments prescribed. The pharmacist filling the prescription shall record upon the face of said prescription, over the signature of the pharmacist making the sale, the date of such sale. Such prescription may be refilled or renewed for a period of one year from its date of issuance unless the physician indicates otherwise on the prescription. No such prescription shall be filled which has been outstanding for more than one year from the date of issuance without having been filled.

1954, 226, s 2.





monwealth or of the state where he resides, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, or the holder of a permit issued under section two hundred and nine A, or a chiropodist or podiatrist who has received from the board of registration in chiropody (podiatry) a certificate stating that upon examination by said board he has been determined to be competent to use hypodermic needles, shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection. No such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, a nurse upon the written order of a physician or dentist, the holder of a permit issued under section two hundred and nine A, a chiropodist or podiatrist who holds a certificate issued by the board of registration in chiropody (podiatry) as aforesaid, or an employee of an incorporated hospital upon the written order of its superintendent or officer in immediate charge. A record shall be kept by the person selling such syringe, needle or instrument, which shall give the date of the sale, the name and address of the purchaser and a description of the instrument. This record shall at all times be open to inspection by the department of public health, the boards of registration in medicine, veterinary medicine, chiropody (podiatry), and pharmacy and the board of dental examiners, authorized agents of said department and boards, and police authorities and police officers of towns. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment in a jail or house of correction for not more than two years, or both.

1917, 275, § 15.	1922, 535, § 1.	1945, 509.
1919, 350, § 96.	1924, 289, § 1.	7 Op. A. G. 33.
G. L. 94, § 209.		

**SECTION 209A. Permits for Hypodermic Instruments by Physician's Patients.** A registered physician may, subject to the rules and regulations of the board of registration in medicine, issue to a patient under his immediate charge a permit to have in possession any of the instruments specified in the preceding section. Such permits shall be issued upon blanks to be furnished by said board and any permit so issued may be revoked at any time by it.

1924, 239, § 2.

**SECTION 210. Buildings, etc., illegally used deemed Common Nuisances. Penalty.** Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such

drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance. Whoever keeps or maintains such a common nuisance shall be punished by imprisonment for not less than three months nor more than two years.

1885, 78.	1917, 275, § 12.	1922, 535, § 2.
R. L. 212, § 42.	G. L. 94, § 210.	7 Op. A. G. 33.

**SECTION 211. Penalty for Unlawful Possession of Narcotic Drugs.** Whoever, not being a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist, registered physician, registered veterinarian, registered dentist, nurse acting under the direction of a physician, or employee of an incorporated hospital acting under the direction of its superintendent or official in immediate charge, or a common carrier or messenger when transporting any narcotic drug between persons mentioned in this section in the same package in which the drug was delivered to him for transportation, is found in possession thereof except by reason of a physician's prescription lawfully and properly issued shall be punished by a fine of not more than one thousand dollars or by imprisonment in the state prison for not more than three and one half years, or in a jail or house of correction for not more than two and one half years.

1911, 372, § 3.	1918, 257, § 464.	1935, 412, § 7.
1912, 283, § 2.	1919, 5.	1938, 321, § 1.
1915, 187, §§ 1, 11.	1920, 2.	7 Op. A. G. 33.
1917, 275, §§ 13, 22.	G. L. 94, § 211.	

*Superseded.*

**SECTION 212. Penalty for Illegal Sale, etc., of Narcotic Drugs.** Whoever has in his possession a narcotic drug with intent unlawfully to sell and deliver or to exchange such drug, or any part thereof, or whoever unlawfully sells, furnishes, gives, delivers or exchanges any narcotic drug in violation of any provision of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, shall be punished by imprisonment in the state prison for not more than ten years, or in a jail or house of correction for not less than one year nor more than two and one half years.

1885, 73.	G. L. 94, § 212.	7 Op. A. G. 33.
R. L. 212, § 42.	1922, 535, § 3.	1938, 321, § 2.
1917, 275, § 14.		

**SECTION 212A. Arrest without Warrant Where Narcotic Drug Is Kept.** Whoever is present where a narcotic drug is unlawfully kept or deposited may be arrested without a warrant by any officer authorized to serve criminal process and may be punished as provided in section two hundred and fourteen.

1938, 321, § 3.

**SECTION 213. General Penalty.** Whoever violates any provision of sections one hundred and ninety-eight to two hundred and two, inclusive, and two hundred and four to two hundred and thirteen, inclusive, the penalty whereof is not specified therein, or of section two hundred and three, shall be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

1906, 386, § 6.	1911, 341.	1917, 275, §§ 21, 22.
1908, 307, § 4.	1914, 694, §§ 6, 7;	G. L. 94, § 213.
1910, 271, § 3;	738.	7 Op. A. G. 33.
387, § 5.	1915, 187, §§ 11, 12.	



**SECTION 214. Issue of Search Warrants. Penalty for being Present, etc.** If a person makes complaint under oath to a district court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe that opium, morphine, heroin, codeine, cannabis, peyote or any other narcotic drug, or any salt, compound or preparation of said substances, or any cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, is kept or deposited by a person named therein a store, shop, warehouse, building, vehicle, steamboat, vessel or any place whatever, such person being other than a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist, registered physician, registered veterinarian, registered dentist, registered nurse, employee of an incorporated hospital, or a common carrier or messenger when transporting any drug mentioned herein between parties hereinbefore mentioned, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable, commanding him to search the premises where it is alleged that any of the above mentioned drugs is kept or deposited, and to seize and securely keep the same until final action, and to arrest the person in whose possession such drug is found, together with all persons present where such drug is found, and to return forthwith the warrant with his doings thereon, to a court or trial justice having jurisdiction in the town where said drug is alleged to be kept or deposited. Whoever is so present where any of the aforesaid drugs is found shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for one year, or both.

1910, 387, § 7.	1915, 159.	1935, 412, § 8.
1911, 372, §§ 1, 2.	1916, 117.	1943, 357.
1912, 283, § 1.	G. L. 94, § 214.	7 Op. A. G. 33, 587.

**SECTION 215. Articles seized to be forfeited.** If after such notice as the court or trial justice orders it appears that any drug seized under the preceding section was, at the time of the making of the complaint, unlawfully in the possession of the person alleged therein, the court or trial justice shall order that such article or drug so seized be forfeited to the commonwealth and shall order such article or drug sent to the department of public health. Possession of such drug shall be prima facie evidence that such possession was in violation of law. Said department may destroy such article or drug or cause it to be destroyed or to be disposed of in any way not prohibited by law, and, after paying the cost of the transportation and disposition of the same, it shall pay over the net proceeds to the commonwealth. Said department may deliver such drugs to any public hospital within the commonwealth, not operated for private gain, or may deliver such drugs to the United States commissioner of narcotics or to the United States attorney, in its discretion. Said department shall keep a full and complete record of all such drugs received and disposed of. Section eight of chapter two hundred and seventy-six shall apply

to all judgments rendered and orders made under this and the preceding section.

1910, 387, § 8.	1919, 350, § 96.	7 Op. A. G. 33.
1912, 283, § 8.	G. L. 94, § 215.	1935, 412, § 9.
1914, 792, § 1.	6 Op. A. G. 414.	

**SECTION 216. Manufacture of Certain Preparations forbidden.** No person shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine or any of its salts or alpha or beta eucaine or any of their salts, or any synthetic substitute for them.

1908, 307, § 1.	G. L. 94, § 216.	7 Op. A. G. 33.
1910, 387, §§ 1, 11.		

**SECTION 217. Prosecution for Certain Violations regulated.** The department of public health, the department of public safety, the board of registration in pharmacy, all police officers and all district attorneys shall cause the prosecution of all persons violating any provision of sections one hundred and ninety-seven to two hundred and thirteen, inclusive, and whenever there appears to be a violation of said sections all such officers, officials or departments shall co-operate with all agencies charged with the enforcement of the laws of the United States pertaining to narcotic drugs, but no prosecution shall be brought for the sale at retail or for the gift or exchange of any patent or proprietary medicine or food preparation containing any drug or preparation the sale of which is prohibited by sections one hundred and ninety-eight and two hundred and one, or against any wholesale or retail druggist for the sale, gift or exchange of any patent or proprietary preparation containing cocaine or alpha or beta eucaine, or any synthetic substitute for them unless the department of public health, prior to such sale, gift or exchange, has given public notice in some trade journal that the gift, exchanged or sale at retail of such medicine or food preparation, or the gift, sale or exchange of such patent or proprietary preparation, as the case may be, naming it in each instance, would be contrary to law.

1906, 386, § 6.	1919, 350, § 96.	6 Op. A. G. 357.
1910, 387, § 9.	G. L. 94, § 217.	1935, 412, § 10.
1914, 792, § 1.		

#### MATTRESSES, ETC.

**SECTION 270. Manufacture, etc., of Mattresses, etc., regulated.** No person shall manufacture for purposes of sale, sell, offer or expose for sale, or have in possession with intent to sell, any article of bedding or articles of upholstered furniture unless there is plainly marked upon each such article, or upon a tag sewed thereon, or otherwise securely attached thereto, a statement in the English language of the kind of material used for filling in the manufacture of such article, the name of the manufacturer or vendor, and, also, if the material has previously been used, the words "second hand" and, unless, if any such article is enclosed in a bale, box, crate or other receptacle, there shall be plainly marked upon such receptacle, or upon a tag securely attached thereto, a statement that the contents of the package are marked as herein required. Whoever renovates or remakes any mattress shall attach a tag thereto bearing the word "remade" and a statement of the

INSPECTION AND SALE OF FOOD, DRUGS  
AND VARIOUS ARTICLES.

CHAP. 94.

(To be inserted in place of Section 212, on  
page 79.)

Section 212. Penalty for Illegal Sale, etc., of Narcotic Drugs. Whoever has in his possession a narcotic drug with intent unlawfully to sell and deliver or to exchange such drug, or any part thereof, or whoever unlawfully sells, furnishes, gives, delivers or exchanges any narcotic drug in violation of any provision of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, shall be punished by imprisonment in the state prison for not more than ten years, or in a jail or house of correction for not less than one year nor more than two and one half years; provided, however, that whoever unlawfully sells, furnishes, gives, delivers or exchanges any narcotic drug in violation of any provision

1885, 73.

R. L. 212, s 42

1917, 275, s 14.

G. L. 94, s 212

of said sections one hundred and ninety-eight to two hundred and thirteen, inclusive, to a person under the age of twenty-one years shall be punished by imprisonment in the state prison for not more than twenty years; and upon a second or subsequent conviction the punishment shall be by imprisonment in the state prison for not less than five years or any term of years up to and including life imprisonment.

Except in the case of conviction for a first offence for violation of the provisions of this section, the imposition or execution of sentence shall not be suspended and probation or parole shall not be granted until the minimum imprisonment herein provided for the offence shall have been served.

1922, 535, s 3.

Z Op A. G. 33.

1938, 321, s 2.

1951, 575.





kind of material used for filling. Possession of any article of bedding or article of upholstered furniture not marked as provided herein, by any person engaged in the business of manufacturing, selling or offering for sale any such article, shall be prima facie evidence that such article is being manufactured, remade or renovated, or is offered or exposed for sale, in violation of the provisions of this section. If none of the material used for filling any article of bedding or article of upholstered furniture shall have been previously used the tag shall in addition bear the words "manufactured of new material". The tag required by this section shall be of durable muslin or linen, or in the case of articles of upholstered furniture, of paper or cloth permanently pasted or attached to each such article and shall be in such form as shall be prescribed by the department of public health. If what is known in the trade as "sweeps" or "sweepings" is used in the filling of any article of bedding, such material shall be named "mill sweepings" on any tag required under this section and if material known in the trade as "oily sweeps" or "oily mill sweepings" is used in the filling of any article of bedding such material shall be named "oily mill sweepings" on any tag required under this section. The tag shall be securely sewed at least by one edge to the outside seam of the ticking or cover of every article of bedding to be manufactured, before the material used for filling has been placed inside the ticking or cover. No tag shall bear any misleading term or description.

Notwithstanding any provision of this section or of section one, an article of upholstered furniture filled with material known as garnetted clippings need not be marked "second hand", and may be marked "manufactured of new material", if such garnetted clippings are composed wholly of material that has been produced in the manufacture of other articles and has never otherwise been in actual use.

1915, 148, § 1.  
G. L. 94, § 270.  
1923, 226, § 1.

1928, 307, § 2.  
1937, 176.  
6 Op. A. G. 255.

Op. A. G. 1932.  
307 Mass. 271.

**SECTION 270A. Sterilization of Certain Material for Bedding, etc.** No person shall maintain an establishment for the sterilization of feathers or down or any material intended for use for filling in the manufacture of any article of bedding or of upholstered furniture without a license from the department of public health. Any person desiring such a license may make written application to said department, stating the location of the establishment and furnishing such other information as may be required by the rules and regulations for the enforcement of this section and section two hundred and seventy B, which said department is hereby authorized to make. Upon receipt of the application, the department shall cause an examination of the establishment to be made and if the establishment is in accordance with said rules and regulations and properly equipped to carry on such business, said department upon receipt of a license fee of fifty dollars shall cause a license to be issued to the applicant for one year. If any such establishment is deemed by said department to be operated or maintained in violation of said rules and regulations, said department shall close such establishment until such time as it has

been put in a condition to conform with the requirements of this section, and said department may suspend the license if the required changes are not made within a reasonable time. Any member or duly authorized employee of said department may enter at any reasonable time any such establishment and any factory, shop, warehouse, store or other place where such material is manufactured, or stored for sale, and may take therefrom samples of such material for the purpose of examination or of evidence. Whoever violates any provision of this section, or of the rules and regulations made hereunder, shall for the first offence be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

1935, 439.

Op. A. G. 1936.

**SECTION 270B. Punishment for Using Non-Sterilized Feathers, etc., in Manufacture of Bedding, etc.** Whoever uses in the manufacture of any article of bedding or of upholstered furniture any material for filling which has been previously actually in use as a part of a manufactured article or any feathers or down unless such material, feathers or down has been sterilized in accordance with said rules and regulations of said department shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one month, or both.

1935, 439.

Op. A. G. 1936.

**SECTION 270C. Articles of Bedding Containing Second Hand Metal to be Marked.** No person shall manufacture for purposes of sale, sell, offer or expose for sale, or have in possession with intent to sell, any article of bedding, consisting in part of metal which has previously been used, or any upholstered spring bed, box spring, studio couch, day-enport, day bed, bed spring, metal bed, metal folding bed, metal couch, metal cradle, metal basinet or similar article designed for the use of persons when sleeping or reclining, consisting in whole or in part of metal which has previously been used, unless such article is plainly and permanently marked or tagged "second hand metal used in this article", and unless, if any such article is enclosed in a bale, box, crate or other receptacle, there shall be plainly marked upon such receptacle, or upon a tag securely attached thereto, a statement that the contents of such receptacle are marked as herein required. Whoever violates any provision of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months, or both.

1939, 196, § 2.

300 Mass. 271.

**SECTION 271. Use of Certain Material prohibited.** No person shall use, in the manufacture of any article of bedding or article of upholstered furniture for purposes of sale, or sell or offer or expose for sale, or have in possession for the purpose of such use or for sale or for use in the remaking or renovating of any such article, and material which has previously been used in or about a hospital, or on or about the person of any one having an infectious or contagious



disease, nor shall any person sell, or offer or expose for sale, any such article containing materials which have previously been so used.

1915, 148, § 2.  
G. L. 94, § 271.

1928, 226, § 2.  
1928, 307, § 3.

6 Op. A. G. 255.

**SECTION 272. Sale, etc., of Second Hand Hair, etc.** No person shall sell or offer for sale any second hand hair, down, feathers, wool, cotton, kapok or other materials commonly used for filling articles of bedding or articles of upholstered furniture, representing the same to be new material. No person engaged in the business of selling any such materials shall ship any box, crate, package or other container in which is placed any such hair or other material above specified unless there is attached thereto a tag containing a statement of the contents of the package together with the name of the vendor, and if the material has been used before, with the words "second hand". Violation of any provision of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

1919, 123.  
G. L. 94, § 272.

1928, 226, § 3.  
1928, 307, § 4.

6 Op. A. G. 255.

**SECTION 273. Investigations, etc., by Department of Public Health.** The department of public health, whenever there is reason to believe that any provision of sections two hundred and seventy to two hundred and seventy-seven, inclusive, is being violated in any factory, shop, warehouse, store or other place, shall cause an investigation to be made of any such place, and for this purpose any member or duly authorized employee of the said department may enter such building or other place at all reasonable times. If, upon investigation, articles of bedding or articles of upholstered furniture, or materials for use in the manufacture, remaking or renovation of the same, shall there be found, which have been previously used in or about a hospital, or on about the person of any one having an infectious or contagious disease, such materials or articles, whether manufactured, remade or renovated or in process of manufacture, remaking or renovation, shall be marked by the said department with labels bearing the word "unclean" in conspicuous letters, and the said department, with or without notice to the owner or supposed owner, may order the removal and destruction of the said materials or articles or make such other order relating thereto as the circumstances of the case require. Whoever obstructs, hinders or in any way interferes with any duly authorized employee of the department in the performance of his official duties under this and the following sections shall for the first offence be punished by a fine of not more than fifty dollars and for a subsequent offence by a fine of not more than one hundred dollars.

1915, 148, § 3.  
1919, 350, § 96.

G. L. 94, § 273.  
1928, 226, § 4.

1928, 307, § 5.  
6 Op. A. G. 255.

**SECTION 274. Posting of Notices, etc. Penalty for Removal.** The said department, or its duly authorized employee, whenever it is deemed necessary to safeguard the public health, may post upon any building or part thereof containing materials or articles mentioned in the preceding section, or from

which the same have been removed, a notice or warning of the danger of contagion or infection resulting from the violation of sections two hundred and seventy to two hundred and seventy-seven, inclusive, and may continue such notice upon the said premises until the same have been properly cleaned and disinfected. Whoever removes or effaces such notice or warning except by order of said department shall be punished by a fine of not more than fifty dollars.

1915, 148, §§ 4, 6.

G. L. 94, § 274.

6 Op. A. G. 255.

**SECTION 275. Police etc., to notify Department, etc., when.** Any police officer, member of any local board of health, or other town official, who has reason to believe that any provision of sections two hundred and seventy to two hundred and seventy-seven, inclusive, has been or is being violated, shall give notice thereof to the department of public health.

1915, 148, § 5.  
1919, 350, § 96.

G. L. 94, § 275.

6 Op. A. G. 255.

**SECTION 276. Penalty for Removal, etc., of Marking or Tag, etc.** Whoever, except a purchaser at retail, removes or effaces any marking upon any article or receptacle or any tag or label attached thereto as provided in section two hundred and seventy or in section two hundred and seventy C shall be punished by a fine of not more than fifty dollars.

1915, 148, §§ 1, 6.  
G. L. 94, § 276.

1939, 196, § 3.

6 Op. A. G. 255.

**SECTION 277. Penalty for Manufacture, etc., of Certain Articles.** Whoever violates any provision of section two hundred and seventy or two hundred and seventy-one shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

1915, 148, § 6.

G. L. 94, § 277.

1928, 226, § 5.

**SECTION 277A. Labelling of Furs, etc.** All natural, dyed or imitation furs, and all articles made wholly or partly therefrom, sold at retail within the commonwealth, shall be plainly marked or labelled with an accurate statement of the material which they contain, together with the name and address of the seller. If such statement refers to the fur or other material by a trade name, it shall further designate it by the true name or names of the animal or animals from which such fur is taken or of such other material. In the case of fur, such statement shall fully disclose that the fur sold or contained in the article sold is dyed, or that the fur or article is made of pieces of fur other than whole skins, if such is the fact. Such statement shall contain no misrepresentation as to the place from which the fur or other material came, as to the manufacturer of the article, or as to any other matter, and shall be plainly and permanently marked or branded on the inside of the skin, or plainly set forth in a permanent label firmly sewed to the material or article or to the permanent lining of the article. Whoever violates any provision of this section shall be punished by a fine of not more than two hundred dollars.

1941, 422.

#### METHYL OR WOOD ALCOHOL.

**SECTION 303A. Sale of Methyl or Wood Alcohol Regulated.** No person other than a registered druggist shall engage in the business of manufacturing,



buying, selling, transporting, importing, exporting or dealing in methyl alcohol, or wood alcohol, so called, or any preparation, other than shellac varnish or shellac solvent or paint remover or varnish remover, used for manufacturing or commercial purposes which contains more than three per cent of methyl alcohol and is intended for use other than as a beverage, without being licensed so to do as provided in section three hundred and three B.

1934, 372, § 3.  
1935, 342.

1936, 53.  
1935, Op. A. G. 27.

1935, Op. A. G. 28.

**SECTION 303B. Licenses, How Issued.** The board of health of a town may issue to properly qualified persons licenses to engage therein in the business described in section three hundred and three A. The fee for such a license shall be one dollar, which shall be paid into the town treasury. The department of public health may issue licenses to such persons to engage in such business anywhere within the commonwealth upon payment of a fee of ten dollars, which shall be paid into the state treasury. All licenses issued under this section shall expire twelve calendar months from the date of issue, and may at any time be suspended or revoked, for cause, by the issuing authority. Such authority shall keep a record of all licenses granted, suspended or revoked by it.

1934, 372, § 3.

1937, 177, § 1.

**SECTION 303C. Containers to be Marked.** Every barrel, keg, bottle or other container containing methyl alcohol or wood alcohol, so called, or any drug or medicine intended for external use containing methyl alcohol shall bear in capital letters not less than three eighths nor more than one and one half inches in height, stencilled or printed thereon, the words "POISON, NOT FOR INTERNAL USE", or shall bear a label which shall include the word "POISON" and which shall conform to regulations prescribed by the department of public health, authority to prescribe such regulations and to amend or annul the same being hereby granted to said department. Whoever, himself or by his servant or agent, sells, exchanges or delivers any such alcohol, drug or medicine in any container not conforming to this section shall be punished by a fine of not less than fifty nor more than two hundred dollars.

1934, 372.

1937, 377, § 2.

**SECTION 303D. Sale for Drinking Purposes Prohibited.** The sale of methyl alcohol or wood alcohol, so called, or any preparation containing methyl alcohol as described in section three hundred and three A by a person not licensed as required by sections three hundred and three A and three hundred and three B, or by a licensee to a person under sixteen years of age or to any person without reasonable investigation and inquiry to determine that the same is not to be used for drinking purposes, shall constitute the offence of unlawful sale of alcohol and may be described as such in any complaint or indictment without more; but a person so charged shall be entitled to a bill of particulars in accordance with section forty of chapter two hundred and seventy-seven.

1934, 372, § 3.

**SECTION 303E. Penalty for Violations.** Except as otherwise provided in section three hundred and three C, violation of any provision of sections three hundred and three A to three hundred and three D, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both.

1934, 372, § 3.

**SECTION 303F. Certificate of Purchase of Fuel Oil to Be Delivered.** Whoever sells fuel oil in quantities of ten gallons or over for heating or cooking purposes shall cause a certificate or memorandum to be issued and delivered to the purchaser or his agent at the time of delivery of such oil. Such certificate or memorandum shall include the names and addresses of the seller and of the purchaser, and a statement of the quantity of oil delivered, in terms of gallons and fractions thereof, if any. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

1935, 95.

#### GENERAL PROVISIONS AND PENALTIES.

**SECTION 304. Vendor to furnish Samples for Analysis, when.** Whoever offers or exposes for sale or delivers to a purchaser any drug or article of food, shall, upon application of an inspector, analyst or other officer or agent of the department of public health and upon tender of the value thereof, furnish a sample sufficient for the analysis of any such drug or article of food which is in his possession. Violation of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars.

1882, 263, § 6.  
R. L. 75, § 20.  
1914, 792, § 1.  
1919, 350, § 96.

1921, 436, § 27.  
G. L. 94, § 304.  
6 Op. A. G. 291,  
406.

7 Op. A. G. 397.  
For penalty, see § 156.

**SECTION 305A. Manufacturing Food in Unsanitary Establishments, etc. Penalty.** Unless another penalty is provided under this chapter, whoever for the purpose of sale manufactures, prepares, packs, cans, bottles, keeps, exposes, stores, handles, serves, or distributes in any manner, food in or from an unclean, unsanitary or unhealthful establishment, place or vehicle or under unclean, unsanitary or unhealthful conditions shall be punished for the first offence by a fine of not more than one hundred dollars and for a subsequent offence by a fine of not more than five hundred dollars. The provisions of this section relative to the keeping or exposing for sale of food shall not apply in any city or town where rules and regulations made by its board of health under section one hundred and forty-six, or corresponding provisions of earlier laws are in force. For the purposes of this section, the word "food" shall mean and include all articles, whether simple, mixed or compound, used or intended to be used for food or drink, confectionery or condiment, by human beings, except milk and cream.

G. L. 94, § 305A.

1925, 50.

1937, 362, § 5.

**SECTION 305B. Persons engaged in Handling Food, Medical Examinations, etc.** The commissioner of public health, on his own initiative or at the re-



quest of a local board of health, may require any person working in an establishment engaged wholly or in part in the business of producing, manufacturing, processing, storing or offering or exposing for sale any article of food and whose duties actually involve the handling of food during such production, manufacture, processing, storing or offering or exposing for sale, to submit to thorough examination by the department of public health, hereinafter called the department, or by the local board of health, if said commissioner has reason to believe that the examination of such person is necessary for the protection of the public health, to ascertain whether or not he is afflicted with any contagious, infectious or other disease or physical ailment which might render such employment detrimental to the public health, and whether or not, in the opinion of the department, he is a carrier, so called, of such a disease. Such examination shall be made by a physician duly registered and licensed to practice in the commonwealth, and shall be made without charge to the person examined and at the expense of the department or of the local board requesting it. Such examination may include the taking of samples of body fluids, secretions or excretions for examination. Any person so examined may have his physician present at the examination, and, at the request of the person so examined and at his expense, additional samples may be taken for examination at any laboratory approved by the department, but pending the report from the examination of such additional sample the person so examined shall be subject to the rules and regulations of the department made hereunder. The department, and local boards of health within their respective jurisdictions, shall enforce the provisions of this section, and the department may make rules and regulations consistent with said provisions to carry out the purposes thereof. No owner, manager or person in charge of such an establishment shall knowingly require or permit any person who is found upon examination to be afflicted or to be a carrier as aforesaid, or who refuses to submit to such examination, if required

so to submit, to continue to work therein in the performance of duties actually involving the handling of food as aforesaid. Whoever violates any provision of this section or of any rule or regulation made thereunder shall be punished by a fine of not less than ten nor more than one hundred dollars. For the purposes of this section, the word "food" shall mean and includes all articles, whether simple, mixed or compound, used or intended to be used for food or drink, confectionery or condiment, by human beings.

1928, 229, § 1.

**SECTION 306. General Penalty.** Unless another penalty is provided in this chapter, whoever counterfeits any brand required by this chapter or whoever without authority marks or brands any article required to be inspected, or marks or brands such article with a counterfeit brand, shall be punished by a fine of not more than two hundred dollars; and whoever alters or defaces any marks or brands made by an inspector of milk or collector of samples of milk under this chapter, unless another penalty is provided, shall be punished by a fine of not more than twenty-five dollars.

R. S. 28, § 56.  
G. S. 49, § 20.

P. S. 56, § 13.  
R. L. 56, § 2.

G. L. 94, § 306.

#### REFERENCES.

Prohibition against occupancy of buildings for slaughtering purposes without license, Chap. 111, § 152.

For duties of local boards of health and department of public health not in this chapter, Chap. 111.

Allegations, forms and schedules of pleading, duties of defendants and presumptions in prosecutions under §§ 197 to 213, inclusive, Chapter 277, end.

Labelling of wood alcohol, Chap. 94, § 303C.

Search warrants, Chap. 276, § 1, cl. 6.

§§ 262 to 268. United States law relative to lime in course of interstate commerce, 39 U. S. Stat. at Large, 530.

### CHAPTER 110.

## LABELS, TRADE MARKS, NAMES AND REGISTRATION THEREOF.

**SECTION 24. Defiling Registered Cans, etc. Penalty.** Whoever puts an unclean or foul substance into any registered can, tub or cabinet shall for the first offence be punished by a fine of not less than fifty cents nor more than five dollars for each can,

tub or cabinet with respect to which the violation occurs and for any subsequent offence by a fine of not less than two nor more than twenty dollars for each such can, tub or cabinet.

1900, 359, § 4.  
R. L. 72, § 32.

G. L. 110, § 24.  
1924, 37, § 4.

247 Mass. 581.

GENERAL PUBLIC HEALTH LAWS

CHAP. 94

(To be inserted in place of Section 303F on page 83.)

Section 303F. Whoever sells or delivers fuel oil in quantities of ten gallons or over for heating or cooking purposes shall cause a certificate or memorandum to be issued and delivered to the purchaser or his agent at the time of delivery of such oil. Such certificate or memorandum shall include the names and ad-

resses of the seller and of the purchaser, and a statement of the quantity of oil delivered, in terms of gallons and fractions thereof, if any. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

1952, 107.





## CHAPTER 111.

### PUBLIC HEALTH.

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**SECTION 1. Definitions.** The following words as used in this chapter, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

"Board of health" shall include the board or officer having like powers and duties in towns where there is no board of health.

1930, Op. A. G. 117.

"Commissioner", the commissioner of public health.

"Council", the public health council of the department of public health.

"Department", the department of public health.

"Disease dangerous to the public health" shall include all diseases defined as such in accordance with section six.

G. L. 111, § 2.

1938, 265, § 6.

## DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH.

**SECTION 2. Commissioner of Public Health. Certain Duties, etc.** The commissioner shall administer

the laws relative to health and sanitation and the regulations of the department, and shall prepare rules and regulations for the consideration of the council. He may direct any executive officer or employee of the department to assist in the study, suppression or prevention of disease in any part of the commonwealth. He shall submit annually to the council a report containing recommendations in regard to health legislation.

1869, 420, § 5.	1914, 792, §§ 2, 8.	4 Op. A. G. 16,
1886, 101, § 3.	1919, 350, §§ 96, 97.	100, 403.
R. L. 75, § 8.	G. L. 111, § 2.	6 Op. A. G. 406.

**SECTION 3. Certain Duties of the Public Health Council.** The council shall make and promulgate rules and regulations, take evidence in appeals, consider plans and appointments required by law, hold hearing and discharge other duties required by law; but it shall have no administrative or executive functions. Hearings of the department may be held by the commissioner, or by the director of a division of the department if so authorized by the commissioner and council.

1869, 420, §§ 1-3, 5.	1889, 370.	1946, 152.
1879, 291, §§ 2, 7.	R. L. 75, §§ 1-3.	237, Mass. 58; 498.
P. S. 79, §§ 1, 8.	1914, 792, §§ 3, 8.	6 Op. A. G. 406.
1886, 101, §§ 1-3.	G. L. 111, § 3.	

**SECTION 4. Health Districts. District Health Officers.** The commissioner, with the approval of the council, shall from time to time divide the state into not more than eight health districts. He may from time to time order two or more district health officers to work in one district, in order to study, suppress or prevent disease. Each district health officer shall act as the representative of the commissioner, and under his direction shall secure the enforcement within his district of the laws and regulations relating to public health. He shall have the powers and perform the duties set forth in this chapter, and, under the direction of the commissioner, shall perform such other duties as he may prescribe.

1907, 537, §§ 1, 4.	1919, 350, § 97.	G. L. 111, § 4.
1910, 523, § 1.	1920, 435.	6 Op. A. G. 406.
1914, 792, § 5.		

**SECTION 5. Powers and Duties of the Department.** The department shall take cognizance of the interests of health and life among the citizens of the commonwealth, make sanitary investigations and inquiries relative to the causes of disease, and especially of epidemics, the sources of mortality and the effects of localities, employments, conditions, and circumstances on the public health, and relative to the sale of drugs and food and adulterations thereof; and shall gather and disseminate such information relating thereto as it considers proper for diffusion among the people. It shall advise the government concerning the location and other sanitary condition of any public institution; and shall have oversight of inland waters, sources of water supply and vaccine institutions; and may, for the use of the people of the commonwealth, produce and distribute anti-toxin and vaccine lymph and such specific material for protective inoculation, diagnosis or treatment against typhoid fever and other diseases as said department may from time to time deem it advisable to produce and distribute; and may sell, under such rules, regulations or restrictions as the council may

(See page 86, insert in place of Section 1)

SECTION 1. DEFINITIONS. The following words as used in this chapter, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

"Board of health" shall include the board or officer having like powers and duties in towns where there is no board of health.

"Commissioner", the commissioner of public health.

"Council", the public health council of the department of public health.

"Department", the department of public health.

"Disease dangerous to the public health" shall include all diseases defined as such in accordance with section six.

"Inland waters" shall include any and all lakes, ponds, streams, tidal waters and flats, and underground waters.

1930, Op. A.G. 117  
G.L. III, s 2

1938, 265, s 6  
1951, 448, s 1





## PUBLIC HEALTH

### CHAP. III

(to be inserted on page 86 after section 1)

SECTION 1A. The provisions of this chapter relative to the protection of public health by the prevention of pollution and contamination of waters and water courses and tidal waters shall apply to sources of pollution owned, operated or controlled by the commonwealth, any department, board, commission or institution thereof, in the same manner and to the same extent that such provisions apply to privately owned, operated or controlled sources of pollution or contamination, except that the remedy for a refusal or failure to comply after notice with a rule, regulation or order of the department relative to the prevention of pollution or contamination of waters or water courses by the commonwealth or any department, division, commission or institution thereof, shall be that the facts relative thereto be reported by the department to the governor and council who shall investigate the matter and make such order as to compliance therewith or other disposition thereof as they may deem appropriate.

G.L. III, s 1A

SECTION 1B. The provisions of this chapter relative to the protection of public health by the prevention of pollution and contamination of waters and water courses and tidal waters shall apply to sources of pollution owned, operated or controlled by any political subdivision of the commonwealth, in the same manner and to the same extent that such provisions apply to privately owned, operated or controlled sources of pollution or contamination, except that no order of the department relative to the prevention of pollution or contamination of waters or water courses or tidal waters by any political subdivision of the commonwealth shall issue except as herein provided. After an investigation and hearing by the director of the division of accounts, held in the political subdivision affected, at which hearing the department and the political subdivision may be represented, the said director shall investigate and study the financial condition of the political subdivision and determine its ability to finance the plan proposed by the department. Said director shall report to the department and the political subdivision affected by filing with each a copy of his findings in writing. No political subdivision shall be required to expend an amount in excess of that determined by the division of accounts to be within its ability to finance.

G.L. III, s 1B





(To be inserted in place of page 86A)

Section 4A. The department of public health is hereby authorized and directed to establish clinics for the diagnosis, treatment and rehabilitation of person addicted to the excessive use of alcoholic beverage, for the study of the problems of alcoholism and for the promotion of a preventive and educational program relating thereto. The department may require of any department, commission, board or officer of the commonwealth which has or can obtain information regarding methods for treating alcoholism and regarding other factors relating to the problem of alcoholism in the commonwealth, such assistance as may be helpful to it. The department shall report annually to the general court and the governor its findings and recommendations regarding such problem.

The commissioner, with the approval of the public health council, shall appoint a director of the clinics.

The director shall consult and work in conjunction with nationally recognized scientific and service organizations and such other agencies as are able to assist in the study, treatment and rehabilitation of alcoholics and in a scientific and educational program relative to the problems of alcoholism.

1950, 800

1954, 581, s.3.

Section 4B. The department shall establish and maintain such hospital and clinic facilities as are necessary to properly care for persons addicted to the excessive use of alcoholic beverages.

1950, 800

Section 4C. Any person who through the excessive use of alcoholic beverages has become unable to care for himself, his family, or his property, or has become a burden on the public, may voluntarily request admission to the hospital and clinic facilities established under section four B. Admissions to such hospital and clinic facilities may also be made on recommendation by a physician, by the courts, social agencies, families or friends of such person. All admissions under this section shall be voluntary on the part of the patient and subject to the approval of the department or its authorized agents.

1950, 800.





establish, such amounts of the various biologic products prepared or manufactured in the laboratories of the department, as constitute an excess over the amounts required for the diagnosis, prevention and treatment of infectious diseases within the commonwealth. It shall annually examine all main outlets of sewers and drainage of towns of the commonwealth, and the effect of sewage disposal.

It shall from time to time, after notice to all persons interested and a public hearing, and subject to the approval of the governor and council, prescribe and establish rules and regulations to prevent pollution or contamination of any or all of the lakes, ponds, streams, tidal waters and flats within the commonwealth or of the tributaries of such tidal waters and flats; provided, that nothing contained herein shall affect other powers and duties of the department as defined by any general or special law. Said rules and regulations, after being so prescribed and established, shall have the force of law. Whoever after due notice continues to violate any such rule or regulation shall be punished by a fine of not less than one hundred nor more than five hundred dollars to the use of the commonwealth. The publication of any such rule or regulation made by the department under this section in a newspaper of the town where such rule or regulation is to take effect or, if no newspaper is published in such town, the posting of a copy of such rule or regulation in a public place therein, shall be legal notice to all persons; and an affidavit of such publication or posting by the person causing such notice to be published or posted, filed and recorded, with a copy of the notice, in the office of the town clerk of such town, shall be admitted as evidence of the time when, the place where and the manner in which the notice was given. The supreme judicial or superior court, upon the application of the department, or upon the application of any party interested, with the approval of the department, may enforce such rules and regulations, and restrain the use or occupation of the premises or such portion thereof as the department may specify until such rules and regulations have been complied with.

1869, 420, § 2.  
1879, 291, § 3.  
P. S. 80, § 1.  
1882, 268, § 5.  
1886, 101, § 4.  
1888, 375, § 1.  
1894, 355.  
1897, 510, § 1.  
1901, 104.

R. L. 75, § 4.  
1908, 480.  
1912, 104.  
1914, 792, § 1.  
1917, 190.  
1919, 350, § 96.  
G. L. 111, § 5.  
1941, 888.  
1945, 615.

1921, 322.  
1929, 161.  
125 Mass. 182.  
318 Mass. 523.  
319 Mass. 705.  
6 Op. A. G. 406.  
Op. A. G. (1927) 51.  
8 Op. A. G. 210.  
Op. A. G. 1941, 36.

**SECTION 5A. Distribution of Antitoxins, etc., in Time of Emergency.** The department, with the approval of the commission on administration and finance, may, for the purpose of aiding in national defense in case of war or in any national emergency declared by the president, prepare and distribute without as well as within the commonwealth, and sell or give away, in its discretion, antitoxins, serums, vaccines, viruses and analogous products applicable to the prevention or cure of disease of man, for the use of the armed forces of the United States or in civilian defense work. This section shall not curtail any powers or duties of the department under section five.

1941, 612.

*Superseded*

**SECTION 6. To define Diseases deemed Dangerous to Public Health.** The department shall have the power to define, and shall from time to time define, what diseases shall be deemed to be dangerous to the public health, and shall make such rules and regulations consistent with law for the control and prevention of such diseases as it deems advisable for the protection of the public health.

1907, 183, § 1.  
1914, 792, § 1.  
1919, 350, § 96.

1938, 265, § 7.  
6 Op. A. G. 406.

Op. A. G. (1927) 52.  
Op. A. G. (1942) 32.  
G. L. 111, § 6.

**SECTION 7. Investigation of Contagious Diseases. Notice.** If smallpox or any other contagious or infectious disease declared by the department to be dangerous to the public health exists or is likely to exist in any place within the commonwealth, the department shall make an investigation thereof and of the means of preventing the spread of the disease, and shall consult thereon with the local authorities. It shall have co-ordinate powers as a board of health, in every town, with the board of health thereof. It may require the officers in charge of any city or state institution, charitable institution, public or private hospital, dispensary or maternity hospital, or any board of health, or the physicians in any town to give notice of cases of any disease declared by the said department to be dangerous to the public health. Such notice shall be given in such manner as the department may deem advisable. If any such officer, board or physician refuses or neglects to give such notice, he or they shall forfeit not less than fifty nor more than two hundred dollars.

1879, 291, § 6.  
P. S. 80, § 2.  
R. L. 75, § 8.  
1913, 670.

1914, 792, § 1.  
1919, 350, § 96.  
G. L. 111, § 7.  
1931, 213, § 3.

3 Op. A. G. 81.  
6 Op. A. G. 406.  
Op. A. G. (1927) 51, 52.

This section is applicable only to places throughout the commonwealth where contagious disease exists or seems likely to exist. 3 Op. Atty.-Gen. 81.

The Department of Public Health has no authority to establish quarantine regulations for, or forcibly to restrain, typhoid carriers, in the absence of reasonable regulations with relations to such carriers made by local boards.

Op. A. G. (1927) 51.

**SECTION 8. May prohibit Use of Common Drinking Cups and Towels.** In order to prevent the spread of communicable diseases, the department may prohibit in hotels and in such public places, vehicles or buildings as it may designate the providing of a common drinking cup or a common towel, and may establish rules and regulations for this purpose. Whoever violates any such rule or regulation shall be punished by a fine of not more than twenty-five dollars.

1910, 428, §§ 1, 2.  
1912, 59, §§ 1, 2.  
1914, 792, § 1.

1919, 350, § 96.  
G. L. 111, § 8.  
5 Op. A. G. 536.

6 Op. A. G. 406.  
Op. A. G. (1928) 102.

**SECTION 9. May appoint Analysts, Inspectors, etc., to make Investigations.** In the performance of the duties relative to the sale of drugs and food the commissioner may appoint and remove in-



spectors, analysts and chemists. Such inspectors shall, in addition to the powers given by sections one hundred and twenty-one to one hundred and twenty-three, inclusive, of chapter ninety-four, have the same power and authority relative to drugs, food and milk as is given inspectors of milk by sections thirty-five and sixty of said chapter. Whoever hinders, obstructs or in any way interferes with any such inspector, analyst or chemist in the performance of his official duty shall for the first offence be punished by a fine of not more than fifty dollars, and for a subsequent offence by a fine of not more than one hundred dollars.

1882, 263, §§ 5, 7.	1910, 394.	203 Mass. 602.
1884, 289, § 3.	1914, 792, § 1.	292 Mass. 379.
1885, 352, § 5.	1919, 350, § 97.	6 Op. A. G. 406.
R. L. 76, § 5.	G. L. 111, § 9.	Op. A. G. (1942) 110

For a discussion of the relative authority of State and local inspectors, see *Commonwealth v. Prince*, 203 Mass. 602.

**SECTION 10. Analyses of Paint, Turpentine, etc.** The department shall make, free of charge, a chemical analysis of paint, turpentine, linseed oil, or any synthetic substitute for them, or any preparation containing the same, when submitted to it by the commissioner of public safety; and the department shall furnish to the said commissioner a certificate of the analysis, which shall be prima facie evidence of the composition and quality of the material so analyzed.

1911, 218; 266, § 3.	1919, 350, §§ 96, 99,	G. L. 111, § 10.
1914, 792, § 1.	102.	6 Op. A. G. 406.

**SECTION 11. Analyses of Intoxicating Liquors.** It shall analyze, in accordance with sections thirty-six to thirty-nine inclusive, of chapter one hundred and thirty-eight, all samples of alcoholic beverages, as defined in section one of said chapter one hundred and thirty-eight, submitted to it for that purpose by the officer mentioned in said section thirty-six if satisfied that the analysis is said to be used in enforcing the laws.

1869, 415, § 25.	R. L. 100, § 67.	1920, 29.
1872, 266, § 2.	1902, 110.	G. L. 111, § 11.
1875, 99, § 21.	1914, 484; 792, § 1.	1934, 328, § 1.
P. S. 100, § 29.	1919, 350, § 96.	6 Op. A. G. 406.
1882, 221, § 1.		

**SECTION 12. Analyses of Narcotic and other Material.** It shall make, free of charge, a chemical analysis of any narcotic drug, or any synthetic substitute for the same, or any preparation containing the same, or any salt or compound thereof, and of any poison, drug, medicine or chemical, when submitted to it by police authorities or by such incorporated charitable organizations in the commonwealth, as the department shall approve for this purpose; provided, that it is satisfied that the analysis is to be used for the enforcement of law.

1910, 495, § 1.	1919, 350, § 96.	1948, 381, § 1.
1914, 792, § 1.	G. L. 111, § 12.	6 Op. A. G. 406.

**SECTION 13. To furnish Certificates of Results of Analyses.** The analyst or an assistant analyst of the department shall upon request furnish a signed certificate, on oath, of the result of the analysis provided for in the preceding section to any police officer or any agent of such incorporated charitable organization, and the presentation of such certificate

to the court by any police officer or agent of any such organization shall be prima facie evidence that all the requirements and provisions of the preceding section have been complied with. This certificate shall be sworn to before a justice of the peace or notary public, and the jurat shall contain a statement that the subscriber is the analyst or an assistant analyst of the department. When properly executed it shall be prima facie evidence of the composition and quality of the narcotic or other drug, poison, medicine or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he is such.

1910, 495, § 2.	1919, 350, § 96.	1948, 381, § 2.
1914, 792, § 1.	G. L. 111, § 13.	6 Op. A. G. 406.
1915, 104.		

**SECTION 14. To furnish Remedies for Ophthalmia Neonatorum.** It shall furnish, free of cost, to registered physicians such prophylactic remedies as it may deem best for the prevention of ophthalmia neonatorum.

1910, 458.	1919, 350, § 96.	6 Op. A. G. 406.
1914, 792, § 1.	G. L. 111, § 14.	

**SECTION 15. Tests for Division of Livestock Disease Control.** It may perform for the division of livestock disease control, upon such terms and conditions as may be agreed upon, such services in its laboratory as may be necessary in the examination of materials from animals suspected of being infected with glanders, tuberculosis, rabies or other diseases of domestic animals.

1916, 155.	G. L. 111, § 15.	6 Op. A. G. 406.
1919, 350, §§ 39,	1934, 340, § 7.	
40, 96.		

**SECTION 16. To report Unsanitary Condition of Barns, etc., to Director of Livestock disease Control.** It shall report to the director of livestock disease control all cases, brought to its attention where barns, stables or other enclosures, in which neat cattle other ruminants or swine are kept, are in an unsanitary condition.

1911, 381, § 2.	1919, 350, §§ 44, 96.	1934, 340, § 8.
1912, 608, §§ 1, 2, 4.	G. L. 111, § 16.	6 Op. A. G. 406.
1914, 792, § 1.		

**SECTION 17. Advise as to Disposal of Water Supply and Sewage.** The department shall consult with and advise the officers of towns and persons having or about to have systems of water supply, drainage or sewerage as to the most appropriate source of water supply and the best method of assuring its purity, or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other towns or persons which may be affected thereby. It shall also consult with and advise persons engaged or intending to engage in any manufacturing or other business whose drainage or sewage may tend to pollute any inland water as to the best method of preventing such pollution, and it may conduct experiments to determine the best methods of the purification or disposal of drainage or sewage. No person shall be required to bear the expense of such consultation, advice or experiments. Towns and persons shall submit to said department for its advice and approval their proposed system of water supply or of the disposal of drain-

## PUBLIC HEALTH

(See page 87, in place of Section 6)

**SECTION 6. TO DEFINE DISEASES DEEMED DANGEROUS TO PUBLIC HEALTH.** The department shall have the power to define, and shall from time to time define, what diseases shall be deemed to be dangerous to the public health, and shall make such rules and regulations consistent with law for the control and prevention of such diseases as it deems advisable for the protection of the public health.

The department shall also have the power to define, and shall from time to time so define, what diseases shall be included within the term venereal diseases in the provisions of the laws relative to public health.

1907, 183, s 1	Op. A.G. (1927) 52
1914, 792, s 1	Op. A.G. (1942) 32
1919, 350, s 96	G.L. III, s 6
1938, 265, s 7	1948, 129 s 1
6 Op. A.G. 406	





age or sewage, and no such system shall be established without such approval. All petitions to the general court for authority to introduce a system of water supply, drainage or sewerage shall be accompanied by a copy of the recommendation, advice and approval of said department thereon. The department may after a public hearing require a city or town or water company to make such improvements relative to any existing treatment works as in its judgment may be necessary for the protection of the public health. In this section the term "drainage" means rainfall, surface and subsoil water only, and "sewage" means domestic and manufacturing filth and refuse.

1886, 274, §§ 2, 3.	1919, 350, § 96.	Op. A. G. 1938.
1888, 375, §§ 2-4.	G. L. 111, § 17.	Op. A. G. (1941) 87.
R. L. 75, § 117.	1937, 340.	Op. A. G. (1942) 88.
1914, 792, § 1.	6 Op. A. G. 406.	

**SECTION 18. Powers and Duties of District Health Officer.** Every district health officer shall inform himself respecting the sanitary conditions of his district and concerning all influences dangerous to the public health or threatening to affect the same; he shall gather all information possible concerning the prevalence of tuberculosis and other diseases dangerous to the public health within his district, shall disseminate knowledge as to the best methods of preventing the spread of such diseases, and shall take such steps as, after consultation with the department and the local authorities, shall be deemed advisable for their eradication.

1907, 587, § 3.	1919, 350, § 96.	3 Op. A. G. 198.
1914, 792, §§ 1, 5.	G. L. 111, § 18.	6 Op. A. G. 406.

**SECTION 19. Annual Reports of District Health Officer.** Every such officer shall keep a record of his proceedings and observations, shall annually on or before December first make a report thereof to the department, shall from time to time furnish the department with such information as it may require of circumstances affecting the public health in his district, and shall in every instance where a written suggestion is made by him to the local authorities send a copy of such suggestion to said department.

1907, 587, § 4.	1917, 151.	G. L. 111, § 19.
1914, 792, §§ 1, 5.	1919, 350, § 96.	6 Op. A. G. 406.

**SECTION 20. Examination of Police Stations, etc.** A district health officer, or such member of his staff as in the opinion of the district health officer is qualified, shall make such examination of police station houses, lockups, houses of detention, jails, houses of correction, prisons and reformatories as in the opinion of the department may be necessary to ascertain their sanitary condition.

1910, 405, § 1.	1919, 350, § 96.	1947, 76.
1911, 282, § 1.	G. L. 111, § 20.	6 Op. A. G. 406.
1914, 792, §§ 1, 5.		

**SECTION 21. Department to make Rules for Police Stations, etc.** The department shall make rules for police station houses, lockups, houses of detention, jails, houses of correction, prisons and reformatories, regarding the care and use of drinking cups and of dishes used for food, the care and use of bedding, and the ventilation of the buildings. Such rules may be general or applicable to a single building. A copy of such rules as are applicable to station houses,

houses of detention or lockups shall be sent by the said department to the mayor of every city and to the selectmen of every town to which the rules apply; and a copy of such rules as are applicable to jails, houses of correction, prisons or reformatories shall be sent by the department to the proper authorities. Said officials shall enforce said rules.

1910, 405, § 2.	1914, 792, § 1.	G. L. 111, § 81.
1911, 282, § 2.	1919, 350, § 96.	6 Op. A. G. 406.

**SECTION 22. Approval of Plans for Police Station Houses.** No station house, house of detention or lockup shall be built until the department has approved in writing the plans, the provisions for lighting, heating and ventilation and for the disposal of sewage, and the dimensions and form of construction of the cells.

1910, 405, § 3.	1919, 350, § 96.	G. L. 111, § 22.
1914, 792, § 1.		

**SECTION 23. Report and Recommendations.** The commissioner shall make an annual report, including the results of the examination of main outlets of sewers and drainage of towns and the effect of sewage disposal, with such recommendations for the preservation of the interest of persons and property and for the prevention of offensive odors and objectionable conditions as he considers expedient, together with recommendations for the prevention of the pollution of waters used for ice or water supply and for the removal of polluting substances, in order to protect and develop the rights and property of the commonwealth therein and protect public health; and he may recommend any legislation or plans for systems of main sewers necessary for the preservation of the public health and for the purification and prevention of pollution of ponds, streams and inland waters of the commonwealth. The commissioner shall include in his annual report the number of prosecutions by the department under chapter ninety-four and an itemized account of the money expended by it in enforcing said chapter.

1884, 289, § 2.	R. L. 75, §§ 4, 7, 115.	1919, 350, §§ 3, 96.
1886, 274, §§ 1-3.	1903, 480.	G. L. 111, § 23.
1888, 375, §§ 1-3.	1912, 104.	6 Op. A. G. 406.
1901, 104.	1917, 190.	

**SECTION 24. Department may publish Certain Information.** The department may publish for general distribution such parts of its annual report to the general court and such other matter as it may deem adapted to promote the interests of the public health in the commonwealth. The department shall publish every five years for distribution among boards of health and other health agencies a manual of the laws relating to boards of health in the commonwealth, containing such information upon the same subject as it may deem expedient. The cost of any publications referred to in this section shall be paid out of the appropriation for the general expenses of the department.

1902, 280.	1919, 350, § 96.	1939, 234.
1913, 622.	G. L. 111, § 24.	1945, 292, § 10.
1914, 792, § 1.	1937, 365.	6 Op. A. G. 406.

**SECTION 25. Department may publish Results of Analysis.** The department shall publish in each issue of its official departmental publication, and also, if in its opinion the public health can be served thereby, may publish in one or more newspapers in



the commonwealth, a certificate of the examination or analysis made under its authority during the preceding months of any article of food manufactured or offered for sale in the commonwealth which is adulterated within the meaning of chapter ninety-four; and it shall also publish, with such certificate of examination, a statement of the trade mark, brand mark or name, with the name and place of business of the manufacturer, appearing upon the package or box containing such adulterated article, or with the name and place of business of the wholesale dealer of whom the goods were obtained.

1902, 272, § 1.  
1914, 792, § 1.  
1919, 350, § 96.

G. L. 111, § 25.  
1922, 200.

6 Op. A. G. 406.  
Op. A. G. 1935.

### CITY AND TOWN BOARDS OF HEALTH.

**SECTION 26. Local Boards of Health, Members, Appointment.** In each city, except as hereinafter provided, the board of health shall consist of three persons, one of whom shall be a physician. No one of them shall be a member of the city council. One member shall be appointed in January of each year for three years from the first Monday of the following February. Unless otherwise provided in the city charter, the members shall be appointed by the mayor, subject to confirmation by the board of aldermen, and may be removed by the mayor for cause, and vacancies shall be filled by appointment for the residue of the unexpired term. Members of the board shall receive such compensation as the city council may determine. Boards of health in towns shall be chosen as provided in chapter forty-one. This section shall not apply to any city in which a different type of organization is authorized by special legislative act or by the acceptance of sections twenty-six A to twenty-six E, inclusive.

1849, 211, §§ 1, 2.  
G. S. 26, § 2.  
1877, 133, § 1.  
P. S. 80, §§ 4, 8.  
1894, 174.

1895, 332.  
R. L. 75, § 9.  
G. L. 111, § 26.  
1946, 268 § 1.  
172 Mass. 417.

173 Mass. 338.  
194 Mass. 51.  
195 Mass. 173.  
6 Op. A. G. 281.

**SECTION 26A. Health Department, Establishment of, Duties, etc.** A city, by accepting the provisions of this section and sections twenty-six B to twenty-six E, inclusive, by vote of the city council and approval of the mayor, and a town, by accepting the provisions of said sections by vote of the town, may create a health department to replace the board of health therein. Such health department shall consist of a commissioner of health who shall perform and exercise the duties and powers of a board of health, with the advice of an advisory council of health.

1946, 268, § 2.

**SECTION 26B. Commissioner of Health Appointment, Qualifications, etc.** In a city the mayor, with the approval of the city council, unless otherwise provided in the city charter, and in a town the board of selectmen, if authorized by a vote of the town, shall appoint, and may remove for cause, a commissioner of health who shall be a citizen of the United States who has been graduated from a medical school approved by the state authority for the approval of medical schools, and either shall be the holder of a degree of public health with at least two years' full-

time experience in a responsible position in public health service, or shall have had four years' full-time experience in a responsible position in such service. He shall be eligible to be registered to practice medicine under the laws of the commonwealth. Said commissioner shall devote his entire time to the performance of his duties and the supervision of the employees of the department. He shall be appointed in January for a period of five years beginning the first Monday of the following February, and until the qualification of his successor. Any vacancy in office shall be filled for the balance of the unexpired term in the same manner as the original appointment. His salary shall be such as the city council or selectmen may determine.

1946, 268, § 2.

**SECTION 26C. Advisory Council of Health Members Appointment, etc.** The advisory council of health shall consist of six persons, two of whom shall be registered physicians. No one of them shall be a member of the city council. The members of said council first appointed hereunder shall be appointed as follows:—two members to serve for one year, two members to serve for two years, and two members to serve for three years, from the first Monday of the following February, and until the qualification of their respective successors, and thereafter two members shall be appointed in January of each year for three years from the first Monday of the following February, and until the qualification of their respective successors. In a city, unless a different mode of appointment or election is provided in the city charter, the members shall be appointed by the mayor, subject to confirmation by the city council, and in a town the members shall be appointed by the board of selectmen. Members may be removed in the same manner, for cause, and vacancies shall be filled in the same manner, by appointment for the remainder of the unexpired term. Members of the advisory council of health shall be compensated at ten dollars a day while on duty plus expenses incurred in line of duty. Said council shall meet quarterly and additional meetings may be held at any time at the call of the commissioner of health, who shall act as chairman of said council. The advisory council of health shall advise and assist the commissioner of health.

1946, 268, § 2.

**SECTION 26D. Boards of Health Abolished Under Certain Conditions.** Upon the qualification of the commissioner of health first appointed under section twenty-six B, the terms of the then existing members of the board of health of the city or town shall terminate and said offices shall thereupon be abolished.

1946, 268, § 2.

**SECTION 26E. Rules and Regulations.** Every such commissioner of health shall make rules and regulations for the department of health, its officers, agents and assistants. He may appoint such necessary assistants and clerks as may be required to execute the health laws and regulations of the department. They shall devote their entire time to the



(To be inserted after section 27A on page 91.)

Section 27B. Two or more municipalities may, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, in other cities by vote of the city council and approval of the mayor, and by vote of a town at a regular annual town meeting, form a regional health district which shall consist of a regional board of health, a director of health and his staff. The regional health district shall have all the powers and shall perform all the duties conferred upon, or exercised by, the boards of health and health departments of the constituent municipalities under any law or ordinance pertaining thereto, except in so far as the regional health district may by majority vote delegate certain powers and duties to the constituent municipalities. The regional health district, hereinafter referred to as the district, shall be administered by a full-time director of health, who shall be either (a) a physician, graduated from an approved school of medicine and registered or eligible for registration to practice medicine in the commonwealth, with one year of full-time graduate public health academic training or two years of full-time experience, and not engaged in private practice while serving as director of health; or (b) a lay person with professional academic training equivalent to a bachelor's degree and with five years of satisfactory full-time experience in generalized public health programs, or a lay person with ten years of full-time satisfactory administrative experience and supervision of generalized public health programs. When a lay health officer is employed, there shall be employed a registered physician to perform such medical functions as are required. The regional board of health, hereinafter referred to as the board, shall be comprised of at least one representative from each constituent municipality. Each constituent municipality having a population greater than ten thousand shall have one additional representative to the board for every population unit of ten thousand or major fraction thereof beyond the first ten thousand. In no instance shall there be more than five representatives from a single municipality on a board. Towns shall at a town meeting select, or change the method of selecting, their representative or representatives by any of the following methods:— (a) by appointment of the board of health, (b) by appointment of the selectmen, (c) by vote at the annual town

meeting, or (d) by any other method decided at the annual town meeting. In cities such representatives shall be appointed by the mayor with the approval of the city council, or in cities having Plan E charters by the city manager, unless a definite mode of appointment is otherwise provided by the city charter. When the district includes one or more entire counties, the county commissioners of each entire county shall appoint an additional representative to the board. Each representative shall serve for a period of three years, excepting that at its initial organization the board shall decide the term of years for the first representatives who shall be elected or appointed to the board, so that thereafter approximately one third of the representatives will be elected or appointed each year. Said representatives shall serve without compensation, but shall receive their necessary traveling expenses from the board while in the performance of their official duties. Representatives to the board may be re-elected or reappointed for a maximum of two terms. The board shall meet annually and at such other times as it shall determine by its rules or when requested by the chairman of the board or the director of health. Any constituent municipality may, by vote passed prior to July first in any year, withdraw from the district, such withdrawal becoming effective January first following; provided, that the municipality shall have been a member of the district for at least five years. The board shall select a treasurer, who may be the treasurer of one of the constituent municipalities, to act as treasurer for the district. For the faithful performance of his duties, said treasurer shall give bond, with a surety company authorized to transact business in the commonwealth, in such sums and upon such conditions as the board may require. Said board, annually in the month of December, shall (a) estimate the amount of money required to pay the cost and expense of the district for the following year, (b) fix and determine by a majority vote the proportion of such costs and expenses to be paid by the individual municipalities thereof during such year, and (c) certify the amount so determined for each municipality to the assessors thereof, who shall include same in the tax levies of each year, and each municipality shall appropriate such sum for the district. In apportioning the costs, the board by a majority vote may use any



of the following formulae as a basis for their apportionment:- (a) valuation according to the latest state valuation, establishing the basis of apportionment of state and county taxes, (b) population as determined by the most recent estimate by the secretary of the commonwealth exclusive of universities and federal, state and county institutions, (c) a combined formula of valuation according to the latest state valuation and population as determined by the most recent estimate by the secretary of the commonwealth, exclusive of universities and federal, state and county institutions, or (d) any other method decided by majority vote of the board. Upon order of the board, the treasurer of each constituent municipality thereof shall from time to time, subject to the provisions of section fifty-two of chapter forty-one, pay to the treasurer of the district the amount certified by the board as the municipality's share of the cost and expenses of the district. The treasurer of the district shall disburse the money so received upon warrant approved by the director of health and signed by the chairman or vice-chairman of the board. The accounts of each district shall be audited annually by the bureau of accounts of the department of corporations and taxation, under the provisions of sections thirty-five, forty and forty-one of chapter forty-four. The board shall appoint, and may reappoint, for a term of five years, a director of health, herein-after referred to as the director, as provided in this section. The board may remove the director for cause after proper notice and a public hearing. The director shall serve as secretary of the board, but shall have no vote. He shall be the executive and administrative head of the district, and may, with the approval of the board, designate one or more deputies and may appoint and employ, with like approval, such assistants as may be provided for in the budget. The director shall prepare and present annually to the board a report and a budget for its approval, together with such recommendations as he may deem proper. The board shall make and promulgate reasonable rules and regulations, for which notice and public hearing shall be given in the same manner and extent as required by the provisions of section thirty-seven of chapter thirty and section two of chapter thirty A. The board shall also (a) take evidence in appeals, (b) consider plans and appointments required by law, (c) hold hearings, and (d) discharge other duties required by law; but it shall have no administrative or executive functions. The

board may delegate the holding of hearings to the director or his deputies. The board may elect an executive committee consisting of its chairman, vice-chairman, secretary and such other members as its rules may determine. Said executive committee shall have the authority to act for the board when the board is not in session. All full-time incumbents of any office or position brought under the district at the time of its formation shall be transferred thereto without loss of civil service, retirement or other rights. All positions and offices of the district, including the director, but excluding representatives to the board, shall be subject to the provisions of chapter thirty-two, and all such included offices and positions shall be placed in the county retirement system of the county which has the majority of the population of the area served by the district at the time of its organization. Ninety days after the organizational meeting of the board, all district positions and offices, except the director and the representatives to the board, not under the provisions of chapter thirty-one at the time of the formation of the regional board of health, shall be placed within the civil service in the manner provided by chapter thirty-one and the rules and regulations promulgated thereunder, and all positions and offices subsequently established by the board shall be subject to the provisions of said chapter thirty-one and the rules and regulations thereof, unless the board by a majority vote within ninety days after its organizational meeting votes not to extend the provisions of said chapter to any or all of such eligible positions and offices. At any time after such a vote to exclude, however, the board by a majority vote may bring within the provisions of chapter thirty-one, in the manner set forth therein, any or all positions and offices, except the director and the representatives to the board, which were excluded but which are still subject to the jurisdiction of the board. The wages and salaries of all offices and positions, including those subject to chapter thirty-one, shall be determined by the board.

1952, 600, s.1      1950, 272

1951, 601, s.2

Section 27C. Each regional health district established under the provisions of section twenty-seven B shall be entitled to reimbursement from the commonwealth, to an amount not exceeding in the aggregate fifty cents per inhabitant of the constituent cities and towns, as determined by the last state or federal census, for expenditures incurred by it for

initial capital outlays, including in such term the acquisition, construction, improvement or renovation of any buildings or premises for the use of the district and any original furnishings and equipment therefor, but excluding the costs of supplies, salaries and other expenses for the ordinary maintenance and operation of such district. In order to qualify for such reimbursement a regional board of health shall, before incurring any expenses reimbursable under this section, submit to the commissioner of public health an itemized statement of all proposed expenditures for such purposes. The commissioner shall examine such statement and shall notify said board to what extent, in his opinion, the proposed expenditures are reasonably necessary for the purposes of the regional

health district and reimbursable hereunder, and the probable amount of reimbursement therefor. Within three months after the date of final payment for such capital outlays the said board shall submit to the commissioner a certified statement of its actual expenditures for such purposes. The commissioner shall, if he is satisfied that the expenditures so certified are reimbursable and not unreasonable or excessive, certify to the comptroller and the treasurer shall forthwith pay to such regional health district, from any amounts appropriated therefor, the amount of such approved reimbursement.

1953, 600, s.1





performance of their duties unless specifically employed on a part-time basis.

1849, 211, §§ 1, 2.	1895, 332.	173 Mass. 338.
G. S. 26, § 2.	R. L. 75, § 9.	194 Mass. 51.
1877, 133, § 1.	G. L. 111, § 26.	195 Mass. 173.
P. S. 80, §§ 4, 8.	1946, 268, § 2.	6 Op. A. G. 281.
1894, 174.	172 Mass. 417.	

When the charter of a city provides for election of the board of health by the city council, the council cannot delegate to the mayor its power to appoint. *Attorney-General v. McCabe*, 172 Mass. 417.

An alien is eligible to the office of city physician of a city, if he is not *ex officio* a member of the board of health. *Ibid.*

**SECTION 27. Boards of Health. Organization, Physicians, etc.** Every such board shall organize annually by the choice of one of its number as chairman. It may make rules and regulations for its own government and for the government of its officers, agents and assistants. It may appoint a physician to the board, who shall hold his office during its pleasure, may choose a clerk who in a city shall not be a member of the board, and may employ the necessary officers, agents and assistants to execute the health laws and its regulations. It may fix the salary or other compensation of such physician and its clerk and other agents and assistants.

1816, 44, § 7.	R. L. 75, § 10.	303 Mass. 404, 567.
R. S. 21, §§ 3, 4.	G. L. 111, § 27.	306 Mass. 565.
G. S. 26, §§ 3, 4.	195 Mass. 173.	313 Mass. 650.
1877, 133, §§ 2, 3.	257 Mass. 580.	6 Op. A. G. 281.
P. S. 80, §§ 5, 6,		
9, 10.		

**SECTION 27A. Appointment of Health Officers by Unions of Two or More Towns.** Two or more towns may, by vote of each, form a district for the purpose of employing therein a health officer and necessary assistants and clerks, all of whom shall be annually appointed by a joint committee composed of the boards of health of said towns. Persons so employed shall perform such duties and receive such compensation as said joint committee shall determine and, in so far as their duties in a given town are concerned, shall be the employees of and responsible to the regularly constituted board of health of said town. Said joint committee shall annually elect a chairman and a secretary and shall determine the relative amount of service to be performed in each town of the district by persons employed hereunder. The treasurer of one of the towns of the district designated by the joint committee shall be treasurer of the district and shall give to the district a bond with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties as treasurer of the district, in such sum and upon such conditions as the joint committee may require. Said joint committee, annually in the month of December, shall estimate the amount of money required to pay the costs and expenses of the district for the following year, shall fix and determine the proportion of such costs and expenses to be paid by the respective towns thereof during such year and shall certify the amount so determined for each such town to the assessors thereof who shall include the same in the tax levy of such year. Upon order of the board of health of each such town, the town treasurer thereof shall, from

time to time, subject to the provisions of section fifty-two of chapter forty-one, pay to the district treasurer such sums not exceeding the amount certified by the joint committee as the town's share of the costs and expenses of the district. The district treasurer shall disburse the money so received, upon warrants approved by a majority of said joint committee and signed by the chairman and secretary thereof. Any constituent town may, by vote passed prior to December first in any year, withdraw from the district, such withdrawal to become effective on January first following. This section shall not apply in the county of Barnstable nor shall it authorize any city to join in forming such a district. *see next green page*

1929, 77.

1932, 209.

**SECTION 28. Annual Reports.** In each city such board shall annually in January make a full and comprehensive report to the city council of its acts during the preceding year and of the sanitary condition of the city. It shall also, if the city council or the standing committee on finance thereof so requires, send to the city auditor a detailed estimate of the appropriation required by its department for the next financial year.

1877, 133, § 4.	R. L. 75, § 11.	6 Op. A. G. 281.
P. S. 80, § 11.	G. L. 111, § 28.	

**SECTION 29. Weekly Reports of Deaths from Certain Diseases.** Boards of health shall send to the department every week, upon forms to be prescribed by it, a report of deaths in their towns for the week ending Saturday noon, from all diseases declared by the department to be dangerous to the public health.

1897, 428, § 2.	1914, 792, § 1.	G. L. 111, § 29.
R. L. 75, § 12.	1916, 58.	6 Op. A. G. 281.
1913, 210.	1919, 350, § 96.	

**SECTION 30. Agents of Boards of Health.** Boards of health may appoint agents to act for them in cases of emergency or if they cannot conveniently assemble, and any such agent shall have all the authority which the board appointing him had; but he shall in each case within two days report his action to the board for its approval, and shall be directly responsible to it and under its direction and control. An agent appointed to make sanitary inspections may make complaint of violations of any law, ordinance or by-law relative to the public health.

1866, 271.	R. L. 75, § 13.	143 Mass. 113.
1879, 75.	G. L. 111, § 30.	6 Op. A. G. 281.
P. S. 80, § 16.		

Technical matters relating to complaints are discussed in *Commonwealth v. Alden*, 143 Mass. 113.

**SECTION 31. Health Regulations. Notice.** Boards of health may make reasonable health regulations. All regulations made by boards of health under this chapter shall be published once in a newspaper published in the town, and such publication shall be notice to all persons. Whoever, himself or by his servant or agent, or as the servant or agent of any other person or any firm or corporation, violates any reasonable health regulation, made under authority of this section, for which no penalty by way of fine



or imprisonment, or both, is provided by law, shall be punished by a fine of not more than twenty dollars.

1816, 44, §§ 3, 11.	1920, 591, § 17.	Op. A. G. (1927) 52.
R. S. 21, § 8.	G. L. 111, § 31.	Op. A. G. 1931.
G. S. 26, § 6.	1924, 180.	Op. A. G. (1940) 76.
F. S. 80, § 19.	1937, 285.	8 Op. A. G. 211.
R. L. 75, § 14.	6 Op. A. G. 280,	301 Mass. 409.
1914, 90.	281, 282.	

Regulations may be made without any previous notice or hearing. *Salem v. Eastern R.R. Co.*, 98 Mass. 443.

**SECTION 31A. Registration of Collectors of Garbage, Offal and Other Offensive Substances.** No person shall remove or transport garbage, offal or other offensive substances through the streets of any city or town without first obtaining a permit from the board of health of such city or town. An application for such permit shall be in such form and contain such information, on oath, as such board shall require. All such permits shall expire at the end of the calendar year in which they are issued, but may be renewed annually on application as herein provided. No permit shall be transferred except with the approval of the said board.

Notwithstanding the foregoing provisions, any person may, without such a permit, transport garbage, offal or other offensive substances through the streets of a city or town in which said substances were not collected; provided, that he registers with the board of health of such city or town; and, provided further, that he transports said substances in accordance with such reasonable rules and regulations as may be established by such board of health.

[Nothing contained in this act shall be construed to impair the obligation of any existing contract for the removal or transportation of garbage, offal or other offensive substances.]

1921, 358.	1945, 423.	1937, Op. A. G. 191.
G. L. 111, § 31A.	6 Op. A. G. 281.	313 Mass. 731.
1937, 282.		

**SECTION 31B. Penalty for Violation of Rules.** Boards of health shall, from time to time, make rules and regulations for the control of the removal, transportation or disposal of garbage, offal or other offensive substances. Whoever violates any provision of section thirty-one A, or of any rule or regulation made thereunder, shall be punished by a fine of not more than fifty dollars.

G. L. (Ter. Ed.) 111,	1937, 282.	313 Mass. 276, 731.
§ 31B.		

**SECTION 32. Retention of Cases.** A board of health shall retain charge, to the exclusion of the board of public welfare, of any case arising under this chapter in which it has acted.

1874, 121, § 1.	G. L. 111, § 32.	285 Mass. 415.
P. S. 80, § 17.	1931, 394, § 116.	6 Op. A. G. 434.
R. L. 75, § 15.		

## SANITARY STATIONS.

**SECTION 33. Construction of Sanitary Stations, etc.** In every city, and in every town having a population of over ten thousand, when, in the opinion of the board of health, public necessity requires it, there shall be established and maintained by the town in some convenient places, at or near the business center, one or more sanitary stations, with

separate water closets for the use of each sex. Their number and location shall be determined by the board of health.

1911, 596, § 1.	G. L. 111, § 33.
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## DISPENSARIES.

**SECTION 50. Cities and Towns may maintain Clinics, etc.** Towns may establish and maintain dental, medical and health clinics, and in connection therewith may conduct campaigns of general education relative to matters of public health. Acting through their respective boards of health, they may unite and co-operate for the foregoing purposes and may provide for the maintenance of clinics as aforesaid in one or more of the towns so uniting.

All appropriations made for the purposes of this section shall be expended under the direction of the local board of health, and clinics established hereunder shall be conducted subject to such rules and regulations as said board may establish.

1914, 677.	G. L. 111, § 50.	290 Mass. 299.
1920, 100.		

**SECTION 51. Definition of Dispensary.** In sections fifty-two to fifty-six, inclusive, "dispensary" shall mean any place or establishment, not conducted for profit, where medical, surgical or dental advice or treatment, medicine or medical or dental apparatus, is furnished to persons not residing therein; or any place or establishment, whether conducted for charitable purposes or for profit, advertised, announced, conducted or maintained under the name "dispensary" or "clinic", or other designation of like import; except that it shall not include a clinic conducted by a hospital, which is licensed under section seventy-one, as an integral part of such hospital.

1918, 131, § 1.	1943, 216, § 1.	290 Mass. 304.
G. L. 111, § 51.		

**SECTION 52. Maintenance of Unlicensed Dispensaries prohibited.** No person, except the regularly constituted authorities of the United States or of the commonwealth, shall establish, conduct, manage or maintain any dispensary without first obtaining a license as provided in the following section.

1918, 131, § 2.	G. L. 111, § 52.
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**SECTION 53. License, Application for.** Any person desiring to conduct a dispensary shall apply in writing to the department for a license. The application shall be in such form as the department shall prescribe, and shall be uniform for all schools of medicine and for all schools of dentistry. There shall be attached thereto a statement of the applicant on oath, containing such information as may be required by the department. If in its judgment the statement filed and other evidence submitted in relation to the application indicate that the operation of the proposed dispensary will be for the public benefit, a license, in such form as it shall prescribe, shall be issued to the applicant. Licenses shall expire at the end of the year in which they are issued, but may be renewed annually on application as above provided. No license shall be transferred except with the approval of the department. For the issue or renewal of each license a fee of five dollars shall be charged, except to incorporated charitable organi-

(To be inserted after Section 31B on Page 92)

Section 31C. A board of health, or other legal authority constituted for such purpose by vote of the town or city council shall have jurisdiction to regulate and control atmospheric pollution, including, but not limited to, the emission of smoke, particulate matter, soot, cinders, ashes, toxic and radioactive substances, fumes, vapors, gases, industrial odors and dusts as may arise within its bounds and which constitutes a nuisance, a danger to the public health, or impair the public comfort and convenience. Said board of health or other legal authority, subject to the approval of the department of public health, may from time to time adopt and shall enforce reasonable rules and regulations for the control of atmospheric pollution. Before the board of health or other legal authority submits such rules and regulations to the department for approval, such board or other legal authority shall hold a public hearing thereon, of which notice shall be given by publication for one day in each of two successive weeks in a newspaper published

in the town, the first publication to be at least fourteen days prior to the date of the hearing, or if no newspaper is published in such town, by posting a copy of such notice in a public place therein. Said rules and regulations, when approved by the department, and after publication in a newspaper published in the town, or, if no newspaper is published in such town, after posting a copy in a public place, shall have the force of law. The department shall advise the board or other legal authority in all matters of atmospheric pollution. The department may, upon request of the board of health or other legal authority of a town adversely affected by atmospheric pollution arising in another town, after a hearing to all parties interested, assume joint jurisdiction to regulate or control such cause of atmospheric pollution and may exercise all powers of the local board of health or other legal authority under provision of the General Laws or any special laws.

1954, 672, s.4





(Insert after Section 27A of Chap. III)

**SECTION 1. COUNTY HEALTH OFFICERS IN BARNSTABLE COUNTY, APPOINTMENT, DUTIES, ETC.** The county commissioners of Barnstable county may appoint one or more registered physicians as county health officers, who shall perform such duties as said county commissioners may prescribe and may, upon written application of the school committee, or board of health, of any town within said county filed with said county commissioners, act as school physician,

inspector of milk or agent of the board of health in such town. County health officers so appointed shall be paid by said county such salaries as shall be established by said county commissioners.

**SECTION 2. SUBMISSION TO BARNSTABLE COUNTY COMMISSIONERS.** This act shall take effect upon its acceptance during the current year by the county commissioners of said county.

1926, 133





## Chapter III

(To be inserted after Section 57B on page 93.)

Section 57C. The department, with the co-operation of local boards of health, hospitals, dispensaries or other agencies shall establish and maintain clinics for the aging in such parts of the commonwealth as it may deem most advantageous to the public health and may otherwise provide services and treatment for aging citizens subject to such rules and regulations as the department may from time to time establish. For the purposes of this section, "services and treatment" shall include transportation, or the reasonable cost of such transportation, to and from the place where treatment is given whenever the patient is not able to pay for such transportation.

1953, 382

1954, 538





zations which conduct dispensaries without charge and which report, as required by law, to the department of public welfare.

1918, 181, § 3. G. L. 111, § 53. 1948, 16, § 2.  
1919, 350, §§ 87,  
96, 97.

**SECTION 54. Rules.** The council shall make rules and regulations, and may revise or change them, in accordance with which dispensaries shall be licensed and conducted, but no such rule or regulation shall specify any particular school of medicine or school of dentistry in accordance with which a dispensary shall be conducted.

1918, 181, § 4. G. L. 111, § 54. 1948, 16, § 8.  
1919, 350, §§ 96, 97.

**SECTION 55. Inspection of Dispensaries.** The commissioner and his authorized agent may visit and inspect any dispensary at any time to ascertain whether it is licensed and conducted in compliance with sections fifty-one to fifty-six, inclusive, and with the rules and regulations established under the preceding section. After thirty days' notice to a licensed dispensary and opportunity to be heard, the department may, if in its judgment the public interest so demands, revoke its license.

G. L. 111, § 55. 1918, 181, § 5. 1919, 350, §§ 96, 97.

**SECTION 56. Penalties for Violation of Section Fifty-three and of Rules of the Board.** Whoever advertises, conducts, manages or maintains a dispensary, unless it is duly licensed under section fifty-three, and whoever wilfully violates any rule or regulation made under section fifty-four, shall be punished by a fine of not less than ten nor more than one hundred dollars. A separate and distinct offence shall be deemed to have been committed on every day during which the violation continues after written notice thereof by the department to the authorities of the dispensary concerned. The commissioner shall report to the attorney general any violation of sections fifty-one to fifty-six, inclusive.

1918, 181, § 7. 1919, 350, §§ 96, 97. G. L. 111, § 56.

**SECTION 57. Establishment and Maintenance of Tuberculosis Dispensaries.** Every city having a population of fifty thousand or more, as determined by the last national census, shall establish and maintain within its limits a dispensary for the discovery, treatment and supervision of needy persons resident within its limits and afflicted with tuberculosis, unless there already exists in such city a dispensary satisfactory to the department. Every city having a population of less than fifty thousand, as determined as aforesaid, and every town may, and at the request of the department shall, establish and maintain a similar dispensary. Such dispensaries shall be subject to the regulation of the boards of health of the cities and towns where they are respectively situated, and shall be inspected by and be satisfactory to the department. A city or town which, upon the request of the department, refuses or neglects to comply with the provisions hereof shall forfeit not more than five hundred dollars.

1911, 576. 1943, 436, § 1. 6 Op. A. G. 80.  
1914, 408. 1924, § 256. 290 Mass. 299.  
G. L. 111, § 57.

**SECTION 57A. Establishment and Maintenance of Cancer Clinics.** The department, with or without the cooperation of local boards of health, hospitals, dispensaries or other agencies, shall establish and maintain cancer clinics in such parts of the commonwealth as it may deem most advantageous to the public health, and may otherwise provide services and treatment for cancer, subject to such rules and regulations as the department may from time to time establish. For the purposes of this section, "providing treatment" shall include providing transportation, or the reasonable cost of such transportation, to and from the place where treatment is given whenever the patient is not able to pay for such transportation.

All payments heretofore made by or on behalf of the commonwealth for cancer clinics under authority of section two of chapter three hundred and ninety-one of the acts of nineteen hundred and twenty-six are hereby validated to the same extent as if the provisions of section one had been in effect at the time of such payments.

1943, 436, § 2.

DAY NURSERIES. — *see 93 A*  
*58-62*

**SECTION 58. Definition.** In sections fifty-eight to sixty-two, inclusive, "day nursery" shall mean any institution, establishment or place not conducted by the commonwealth or any town in which are commonly received, with or without charge, at one time, three or more children not of common parentage, under the age of fourteen, for periods exceeding four but not exceeding twelve hours, for the purpose of nursing and care apart from their parents or guardians.

1919, 195, §§ 1, 7.

G. L. 111, § 58.

**SECTION 59. Licenses, Application for.** No person shall conduct a day nursery without obtaining a license from the board of health. An application therefor shall be in a form prescribed by the said board, and shall be uniform for all day nurseries within the board's jurisdiction. There shall be attached to the application a statement, sworn to by the applicant, or by an officer thereof duly authorized thereto, containing such information as may be required by the board. If in the judgment of the said board the said statement or any other evidence submitted in relation to the application indicates that the operation of the proposed day nursery will be for the public benefit and welfare, a license, in such form as the board may prescribe, shall be issued to the applicant. All licenses shall expire at the end of the year in which they are issued, but may be renewed annually on application as above provided. No license shall be transferred except with the approval of the said board. For the issue or renewal of each license a fee of one dollar shall be charged. All fees shall be paid to the town where the nursery is situated.

1919, 195, § 2.

G. L. 111, § 59.

**SECTION 60. Rules.** Boards of health shall make rules and regulations, and may revise or change them, in accordance with which day nurseries shall be licensed and conducted; and failure to comply



with any such rule or regulation shall be sufficient cause for revocation of the license in the manner provided in the following section.

1919, 195, § 3.

G. L. 111, § 60.

**SECTION 61. Inspection. Revocation of License.** Boards of health by their authorized agents may visit and inspect any day nursery at any time to ascertain whether it is licensed and conducted in compliance with law and with the rules and regulations made under the preceding section. Every day nursery shall so be visited and inspected at least once in each year. After thirty days' notice to a licensed day nursery and opportunity to be heard, the board of health may, if in its judgment the public interest so demands, revoke its license. Every day nursery shall furnish to the said board such reports, information and other data as it may require.

1919, 195, § 4.

G. L. 111, § 61.

242 Mass. 196.

**SECTION 62. Penalties.** Whoever establishes, conducts, manages or maintains a day nursery without first obtaining a license therefor, or after the revocation of the license, or in violation of any provision of sections fifty-eight to sixty-two inclusive, or of any rule or regulation made under section sixty shall be punished by a fine of not less than ten nor more than two hundred dollars. If any person conducting a day nursery shall be found guilty of a violation of any provision of sections fifty-eight to sixty-two, inclusive, or of any rule or regulation, in any particular relating to the safety of or the accommodations for the children, the board of health shall issue an order directing that such nursery be closed, and remain closed until such provision, rule or regulation has been complied with.

1919, 195, § 6.

G. L. 111, § 62.

**SECTION 62A. Children's Health Camps in Cities and Towns.** In each city and town which accepts this and the six following sections, in a city by vote of its city council subject to the provisions of its charter, or in a town by vote of its inhabitants, there shall, except as provided by section sixty-two F, be established, without unreasonable delay, one or more children's health camps for the care and treatment of children of school age in said city or town who upon examination are found to be in need of such care and treatment, but no child shall be given care or medical treatment whose parent or guardian objects thereto.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62A.

**SECTION 62B. Commission on Children's Health Camps, etc.** In each such city and town there shall be an unpaid commission, called the commission on children's health camps, to consist of the mayor or chairman of the board of selectmen, who shall have no vote, the superintendent of schools, the members of the board of health, all to serve ex officio, and also seven residents of such city or town to be appointed by the mayor or the chairman of the board of selectmen. One member of said board shall be designated as chairman by the mayor or the chairman of the board of selectmen. Of the seven persons first appointed after such acceptance, two shall be appointed for terms of one year each, two for terms of two

years each, and three for terms of three years each, and thereafter as the term of each member expires his successor shall be appointed for the term of three years. Each appointment made to fill a vacancy in said commission shall be for the balance of the unexpired term.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62B.

**SECTION 62C. Powers and Duties of Commission.** Said commission shall establish, maintain and have control of all children's health camps for the purposes named in section sixty-two A, and in addition shall have the management of all sums appropriated by the city or town for the maintenance of such children's health camps. Said commission may receive in trust for the aforesaid purposes any gift or bequest of money or securities and shall forthwith transfer any money or securities so received to the city or town treasurer, who shall administer the same as provided by the following section.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62C.

**SECTION 62D. Duties of City or Town Treasurer, etc.** The city or town treasurer shall invest, reinvest and hold in the name of said commission any money or securities, or the proceeds thereof, received from said commission under the preceding section, and shall disburse the income or principal thereof on its order; provided, that no disposition of either income or principal shall be made which is inconsistent with the terms of the trust on which the property is held. The treasurer shall furnish a bond satisfactory to the commission for the faithful performance of his duties relative to such property.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62D.

**SECTION 62E. Records, Annual Report, etc.** The commission shall keep a record of its doings and at the close of each financial year shall make a report to the city or town, showing the total amount of such funds and other receipts, together with investments, receipts and disbursements on account of the same, setting forth in detail the sources of the receipts and the purposes of the expenditures.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62E.

**SECTION 62F. Union Children's Health Camp Districts, etc.** Any two or more such cities or towns may vote to form, for such period of time not exceeding five years as such cities or towns may from time to time determine, a union children's health camp district for the purpose of establishing therein one or more union children's health camps. The management of such union children's health camps in such district shall be vested in an unpaid commission, called the commission on union children's health camps, to consist of the following persons from each of the cities or towns constituting such union, namely, the mayor or chairman of the board of selectmen, who shall have no vote, the superintendent of schools, the members of the board of health, all to serve, ex officio, and also not exceeding ten members, residents of the cities and town comprising the district, to be elected by the ex officio members of the commission for terms commensur-



(See page 93, in place of sections 58 to 62 inclusive, including caption)

#### AGENCIES GIVING DAY CARE TO CHILDREN

**SECTION 58. DEFINITION.** In sections fifty-eight to sixty-two, inclusive, "agency giving day care to children" shall mean and include any institution or place, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school or pre-school or under any other name, except a Sunday school conducted by a church, not conducted by the commonwealth or any city or town, which, for compensation or otherwise, receives for temporary custody, with or without stated educational purposes, during part or all of the day apart from their parents, three or more children under seven years of age and not of common parentage, separate and apart from their parents and elsewhere than at the home of one or more of them during part or all of the day.

1919, 195, ss 1 7      G.L. III, s 58

1950, 205

**SECTION 59. LICENSES, APPLICATION FOR.** No person shall conduct an agency giving day care to children without obtaining a license from the board of health. An application therefor shall be in a form prescribed by the said board, and shall be uniform for all agencies giving day care to children within board's jurisdiction. There shall be attached to the application a statement, sworn to by the applicant, or by an officer thereof duly authorized thereto, containing such information as may be required by the board. If in the judgment of the said board the said statement or any other evidence submitted in relation to the application indicated that the operation of the proposed agency giving day care to children will be for the public benefit and welfare, a license, in such form as the board may prescribe, shall be issued to the applicant. All licenses shall expire at the end of the year in which they are issued, but may be renewed annually on application as above provided. No license shall be transferred except with the approval of the said board. For the issue or renewal of each license a fee of one dollar shall be charged.

All fees shall be paid to the town where the agency giving day care to children is situated.

1919, 195, s 2

G.L. III, s 50

1950, 205

**SECTION 60. RULES.** Boards of health shall make rules and regulations, and may revise or change them, in accordance with which agencies giving day care to children shall be licensed and conducted; and failure to comply with any such rule or regulation shall be sufficient cause for revocation of the license in the manner provided in section sixty-one.

1919, 195, s 3

G.L. III, s 60

1950, 205

**SECTION 61. INSPECTION. REVOCATION OF LICENSE.** Boards of health by their authorized agents may visit and inspect any agency giving day care to children at any time to ascertain whether it is licensed and conducted in compliance with law and with the rules and regulations made under section sixty. Every agency giving day care to children shall so be visited and inspected at least once in each year. After thirty days' notice to a licensed agency giving day care to children and opportunity to be heard, the board of health may if in its judgment the public interest so demands, revoke its license. Every agency giving day care to children shall furnish to the said board such reports, information and other data as it may require.

1919, 195, s 4

G.L. III, s 61

242 Mass. 196

1950, 205

**SECTION 62. PENALTIES.** Whoever establishes, conducts, manages or maintains an agency giving day care to children without first obtaining a license therefor, or after the revocation of the license, or in violation of any provision of sections fifty-eight to sixty-two, inclusive, or of any rule or regulation made under section sixty shall be punished by a fine of not less than 10 nor more than two hundred dollars. If any person conducting an agency giving day care to children shall be found guilty of a violation of any provision of sections



fifty-eight to sixty-two, inclusive, or of any rule or regulation, in any particular relating to the safety of or the accommodations for the children, the board of health shall issue an order directing that such nursery be closed,

and remain closed until such provision, rule or regulation has been complied with.

1919, 195, s 6

G.L. III, s 62

1950, 205

(To be inserted in place of Section 65A on page 95.)

Section 65A. The department may admit to the Lakeville state sanatorium persons suffering from extra-pulmonary tuberculosis, persons crippled by poliomyelitis (infantile paralysis) or arthritis, aging persons, and crippled children as defined in the regulations of the department; provided, that no person shall be

admitted who has not been a resident of the commonwealth for at least twelve months preceding the date of his application for admission, and that preference shall be given to citizens of the commonwealth.

1954, 538, s.2





MASSACHUSETTS HOSPITAL SCHOOL AND HOSPITAL FOR  
STATE MINOR WARDS.

Section 62I. The department shall have general supervision of the Massachusetts hospital school and hospital for state minor wards.

Section 62J. The Massachusetts hospital school shall be maintained for the education and care of crippled and deformed children of the commonwealth. The board of trustees of said school shall have the same powers and shall be required to perform the same duties in the management and control of the school as are vested in and required of the trustees of the various state hospitals under chapter one hundred and twenty-three, so far as applicable.

Section 62K. The trustees shall be a corporation for the purpose of taking and holding, by them and their successors, in the name of the commonwealth, and in accordance with the terms thereof, any grant or devise of land or any gift or bequest of money or other personal property made for the use or benefit of the school, its inmates, former inmates or graduates or any association thereof, or for the use or benefit of state minor wards assigned to the care of the trustees under sections sixty-two P to sixty-two S, inclusive, and for the purposes of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to effect said purposes. For said purposes the trustees may employ such agencies as they may from time to time determine to be wise and proper, including any trust company or other corporation authorized by law to administer trusts, and may from funds received as aforesaid or the income thereof pay such expenses as may be necessary for the wise administration of such gifts or trusts, or may, with the approval of the governor and council, delegate any powers conferred by this section upon any such trust company or corporation. In the use, management and administration of such gifts or trusts, the trustees or their agents shall in their discretion so act as most effectively to aid the beneficiaries in accordance with the terms of the gift or trust, and when so acting their judgments and determinations in extending or denying aid or benefit to any individual shall be conclusive and final. No trustee shall be answerable for the use of any money or property received by any beneficiary or for the

default or neglect of any co-trustee, or of any agent employed hereunder, or of any corporation to which power is delegated or transferred as herein authorized.

Section 62L. The trustees may appoint all persons necessary for the proper administration of the affairs of the school, and may incur all expenses necessary for the maintenance thereof.

Section 62M. The trustees may, upon application of any child entitled to receive the benefit of said school, or upon such application by a parent, guardian or person having the legal custody of the child, or by any state or municipal department, board or officer having such custody, admit such child to said school, subject to such rules and regulations as the trustees may prescribe, and the trustees may discharge such child from the school. The charges for the support of the children of the school who are of sufficient ability to pay for the same, or have persons or kindred bound by law to maintain them, shall be paid by such children, such persons or such kindred at a rate determined by the trustees. The board of such children as have a legal settlement in a town shall be paid by the town at a rate not exceeding seventeen dollars and fifty cents a week, notice of the reception of the children by the trustees being given by them to the board of public welfare of the town as soon as practicable; and the tuition and board of those having no such settlement shall be paid by the commonwealth. The trustees may receive other children having no means to pay for tuition and support, and the tuition and board of all such children shall be paid by the commonwealth. The attorney general and district attorneys shall upon request bring action to recover said charges in the name of the state treasurer. The admission of a child as aforesaid to the school shall be deemed a commitment of the child to the care and custody of the commonwealth, and the trustees, with the approval of the department, may detain the child at said school during its school age, or for such longer period during its minority as in the opinion of the trustees will tend to promote the education and welfare of the child.

Section 62N. There shall be a thorough



inspection of the school by two of the trustees thereof monthly, and by a majority of them quarterly, and by all of them semi-annually, and after each inspection a written report of the state of the institution shall be drawn up. The treasurer shall present his report at said annual meeting and the trustees shall then audit it. The commissioner shall make an annual report of the acts of the trustees.

Section 620. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

Section 62P. The trustees of the Massachusetts hospital school, subject to supervision by the department, may construct from time to time, as appropriations are made by the general court, and thereafter may maintain, suitable buildings for the hospital care and treatment of such state minor wards as may be assigned to their care by the said department.

Section 62Q. The said trustees shall have the same powers and shall perform the same duties in the management and control of the said hospital for state wards as are vested in and required of them in their administration and control of the hospital school under sections sixty-two J to sixty-two O, inclusive, so far as applicable. No state ward who is insane, feeble minded, epileptic, or otherwise unfit, shall be admitted to or received at the said hospital, nor shall any state ward so be admitted or received without the approval of the trustees and the written order of an authorized agent of the department, nor released from said hospital without written notice to the said department.

Section 62R. Any land acquired or buildings erected for the Massachusetts hospital school or the hospital for state minor wards, unless it is otherwise expressly provided, and also any farm product raised at the said hospital school, or at the said hospital, may, as the trustees shall from time to time determine, be used either interchangeably or exclusively for said hospital school or said hospital, or in common for the benefit of both institutions, and for the care and maintenance of their respective inmates, officers, employees and attendants. Such officers, employees and attendants shall, as required by the trustees, render service to either or both of the said institutions. Any sewer, heating, ventilating, water or similar plant or system may so be used, separately or jointly.

Section 62S. No state minor wards shall be assigned to the said hospital until the commissioner, with the approval of the governor and council, finds that sufficient new building accommodations have been constructed to provide for the number thus to be assigned.

508, 1954 s. 1.

1954, 508, s. 1.

ate with the duration of the agreements forming or continuing the union. The term of each person elected to fill a vacancy among the members not serving ex officio shall be for the balance of the unexpired term. The treasurer of said commission shall be the treasurer for the time being of such city or town within the district as is determined by the members of the commission. The provisions of sections sixty-two C to sixty-two E, inclusive, so far as applicable, shall apply to such commission.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62F.

**SECTION 62G. Location, etc., to be approved by Department.** No children's health camp shall be established under section sixty-two C or sixty-two F unless the location and construction plans of such camp have been approved by the department, which may inspect any camp at any time.

1924, 248, § 2.

G. L. (Ter. Ed.)  
111, § 62G.

**SECTION 62H. Care, etc., of Underweight School Children, etc.** A contract for the care and treatment of children coming within the provisions of section sixty-two A, entered into by the commission on children's health camps of a city or town which accepts or has accepted sections sixty-two A to sixty-two G, inclusive, or by a commission on union children's health camps established or to be established under section sixty-two F, with the persons having control of any institution approved by the department in or near said city or town, shall, while such contract remains in force and effective, be deemed satisfactory compliance on the part of such city or town or union with the provisions of said sections sixty-two A to sixty-two G, inclusive, relative to the establishment and maintenance of children's health camps. No such contract shall become effective until it has been approved by the department.

1925, 17, § 2.

G. L. (Ter. Ed.)  
111, § 62H.

## STATE SANATORIA.

**SECTION 63. Duties relative to.** The commissioner shall have general supervision and control of the sanatoria at Rutland, North Reading, Lakeville and Westfield, and shall see that the affairs of such institutions are conducted according to law, and to the bylaws and regulations established by the council in respect thereto. He may also establish out-patient departments, and may disseminate information as to the best methods of combating tuberculosis.

1895, 503, § 5.

1919, 350, §§ 96, 97.

6 Op. A. G. 167.

R. L. 88, § 4.

1924, 477, § 3.

1907, 474, §§ 6,

G. L. (Ter. Ed.)

9, 14.

111, § 63.

**SECTION 64. Annual Inventory.** The commissioner shall annually cause to be made an accurate inventory of the stock and supplies on hand and the amount and value thereof at the end of the fiscal year at each sanatorium under the department; shall make a full and detailed annual report of the condition of each such sanatorium, and all its affairs, with a copy of the inventory required herein; shall receive and audit the annual report of the treasurer

of each sanatorium and deposit the same, with said annual report, with the state secretary.

1832, 163, § 2.

P. S. 79, § 7; 87, § 9.

1905, 211, § 11.

1834, 150, § 2.

1887, 170.

1907, 474, § 6.

R. S. 48, § 5.

1889, 414, § 18.

1911, 154.

1858, 12.

1895, 503, §§ 5, 10.

1919, 350, §§ 96, 97.

1859, 177, § 2.

R. L. 84, § 7; 87, §

G. L. 111, § 64.

G. S. 5, § 11; 73, § 6.

29; 88, §§ 4, 5.

6 Op. A. G. 167.

See next green sheet

**SECTION 65. Admission of Persons to the Rutland State Sanatorium.** Unless the commissioner considers that an exception should be made, citizens of the commonwealth shall be given preference in the admission of persons to the Rutland state sanatorium, and no person shall be admitted thereto who has not been a resident of the commonwealth for at least six months preceding the date of his application for admission.

1907, 222.

1919, 350, §§ 96, 97.

3 Op. A. G. 90.

1912, 468.

G. L. 111, § 65.

6 Op. A. G. 167.

**SECTION 65. Treatment of Extra-Pulmonary Tuberculosis; Poliomyelitis and Crippled Children at Lakeville State Sanatorium.** The department may admit to the Lakeville state sanatorium persons suffering from extra-pulmonary tuberculosis, persons crippled by poliomyelitis (infantile paralysis), and crippled children as defined in the regulations of the department; provided, that no person shall be admitted who has not been a resident of the commonwealth for at least twelve months preceding the date of his application for admission, and that preference shall be given to citizens of the commonwealth.

G. L. (Ter. Ed.)  
111, § 65A.1936, 346, § 1.  
1941, 506.

1948, 412.

**SECTION 65B. Treatment of Rheumatic Heart Disease in Children.** Upon written application of a registered physician, the department may admit to the North Reading state sanatorium children suffering from rheumatic heart disease; provided, that no child shall be so admitted who has not been a resident of the commonwealth for at least twelve months preceding the date of such application and that preference shall be given to citizens of the commonwealth.

1945, 453.

**SECTION 66. Charges for Support of Inmates of State Sanatoria.** The charges for the support of each inmate in a state sanatorium shall be fixed by the department and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall be paid by it, and may afterward be recovered by the state treasurer of the inmates, if they are able to pay; or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but for those having known settlements in the commonwealth, the charges shall be paid either by the persons bound to pay them or by the town where such inmates had their settlement, unless security to the satisfaction of the commissioner is given for their support. If any person or town refuses or neglects to pay such charges the state treasurer may recover the same to the use of the sanatorium. A town which pays the charges for the support of an inmate of a state sanatorium shall have like rights and remedies to recover the amount thereof, with interest



and costs, from the town of his settlement or from such person of sufficient ability, or from any person bound by law to maintain him, as if such charges had been incurred in the ordinary support of such inmate. If in any case the charges, as established by this section, for the support of an adult inmate are not paid in accordance with this section by the inmate or by the persons bound to pay them and a town becomes liable to pay them, such town shall be liable to pay such sum, in addition to such charges, as shall be fixed by the department. In such a case, the provisions of this section relative to the recovery of charges by the state treasurer, and by a town from the town of settlement, shall apply to the recovery of such total amount. This section shall not apply to patients received under any contract made under authority of section seventy-nine. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of a state sanatorium or that he keeps or has custody of records of accounts of inmates thereof, and that a certain person has been an inmate therein during a certain period at a certain charge and that no satisfactory security was given shall be prima facie evidence of the said facts.

1895, 508, § 9.  
R. L. 88, § 7.  
1907, 474, § 10.  
109, 378.  
1911, 596.  
1912, 17.  
1919, 350, §§ 96, 97.

1924, 460, § 1;  
500, § 8.  
1927, 189.  
G. L. 111, § 66.  
1934, 219.  
1947, 630.

227 Mass. 88.  
237 Mass. 359.  
255 Mass. 499.  
278 Mass. 515.  
5 Op. A. G. 512.  
6 Op. A. G. 167.

Municipalities may be held liable for support of pauper in State sanatoria even though no tubercle bacilli are found in the sputum. *Treasurer and Receiver-General v. Newton*, 227 Mass. 88.

**SECTION 66A. Admission of Patients with Diseases of the Lungs other than Recognizable Tuberculosis.** Upon written application of a registered physician, any state sanatorium or county tuberculosis hospital may admit for diagnosis and observation, subject to such rules and regulations as the department may prescribe, such persons with lung diseases other than recognizable tuberculosis, who have resided in the commonwealth for at least two years within the period of three years immediately prior to the date of such application. Any such patient may be discharged from such sanatorium or hospital, prior to the expiration of sixty days after admission, either upon his own request or upon determination of the department or the board of health of the city or town in which such patient resides, or, in any event, upon the expiration of sixty days after admission; and the provisions of sections sixty-six and eighty-eight relative to the support of inmates in state sanatoria and patients in county tuberculosis hospitals, respectively, shall apply in the case of patients admitted under this section.

1937, 332.

**SECTION 67. Trust Funds for Sanatoria.** The department may take and hold in trust gifts or bequests for the use of any sanatorium under its charge, and shall succeed to and retain the rights, powers and duties formerly held or acquired by the trustees of hospitals for consumptives.

1895, 508, § 8.  
R. L. 88, § 8.

1907, 474, § 4.  
1919, 350, § 96.

G. L. 111, § 67.  
6 Op. A. G. 167.

## INFANTS PREMATURELY BORN.

*See page 121A*

**SECTION 67A. Infants Prematurely Born Outside of Hospitals.** If an infant is born prematurely in a place other than a hospital equipped to care for prematurely born infants and weighs five pounds or less at birth, the physician having charge of the birth of such infant shall forthwith give notification thereof to the board of health and the board of public welfare of the town wherein the infant was born, stating the name of the mother of such infant and the street address where the infant is at the time of such notification. Such notification shall be given as soon as is practicable after such birth occurs, by telephone if possible, and in addition thereto such physician shall, within twenty-four hours, after such birth, file a written report with such board of health in such form and giving such information as such board shall prescribe. In the case of such an infant prematurely born in a hospital equipped to care for prematurely born infants, the superintendent or other person in charge of such hospital shall forthwith file with the board of public welfare of the town wherein the infant was born a written report in the form and giving the information required by the board of health hereunder as to premature births reported to said board.

1937, 332.

1939, 246, § 1.

*See page 121A*

**SECTION 67B. Transportation of certain infants to hospital.** Upon the written request of either parent of such infant and of the attending physician, such board of health or its duly authorized representative, upon receiving the notification referred to in the preceding section, shall forthwith provide for the transportation.

1937, 332.

*See page 121A*

**SECTION 67C. Who liable for charges for care of infant.** Reasonable expenses for the care of a prematurely born infant, weighing five pounds or less at birth, in a hospital in which it is born or to which it has been removed shall be paid by the parent or guardian, or any other person bound by law to maintain such infant, if he is able to pay, otherwise by the board of public welfare of the town wherein such infant was born, subject to the provisions of section twenty-four of chapter one hundred and seventeen relative to notice and request and subject to reimbursement as hereinafter provided. If such infant has a legal settlement within the commonwealth, the town of settlement shall reimburse the town where such infant was born in like manner as if the expense of such care had been incurred under section fourteen of chapter one hundred and seventeen. If the infant has no legal settlement in the commonwealth, the town wherein such infant was born shall be reimbursed by the commonwealth for the expense of the care of such infant, within the limits as to amount prescribed by section eighteen of chapter one hundred and twenty-two, upon notice to the department of public welfare by the board of public welfare of such town that said board has incurred such expense; provided, that reimbursement shall not be made for any expense incurred more than ten days prior to such notice.

1937, 332.

1939, 246, § 2.

1945, 535.

PUBLIC HEALTH

CHAP. III

(to be inserted after Section 64 on page 95)

SECTION 65. Unless the commissioner considers that an exception should be made, citizens of the commonwealth shall be given preference in the admission of persons to the

Rutland state sanatorium, and no person shall be admitted thereto who has not been a resident of the commonwealth for at least six months preceding the date of his application for admission.

1907, 222

1912, 468

1919, 350, s 96, 97

1951, 562

1952, 270

G.L. III, s 65

3 Op. A.G. 90

6 Op. A.G. 167



## CHAP. III

(to be inserted after Section 65B on page 95)

SECTION 66. The charges for the support of each inmate in a state sanatorium shall be fixed by the department and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall be paid by it, and may afterward be recovered by the state treasurer of the inmates, if they are able to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but for those having known settlements in the commonwealth, the charges shall be paid either by the persons bound to pay them or by the town where such inmates had their settlement, unless security to the satisfaction of the commissioner is given for their support. If any person or town refuses or neglects to pay such charges the state treasurer may recover the same to the use of the sanatorium. A town which pays the charges for the support of an inmate of a state sanatorium shall have like rights and remedies to recover the amount thereof, with interest and costs, from the town of his settlement or from such person of sufficient ability, or from any person bound by law to

maintain him, as if such charges had been incurred in the ordinary support of such inmate. If in any case the charges, as established by this section, for the support of an adult inmate are not paid in accordance with this section by the inmate or by the persons bound to pay them and a town becomes liable to pay them, such town shall be liable to pay such sum, in addition to such charges, as shall be fixed by the department. In such a case, the provisions of this section relative to the recovery of charges by the state treasurer, and by a town from the town of settlement, shall apply to the recovery of such total amount. This section shall not apply to patients received under any contract made under authority of section seventy-nine. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of a state sanatorium or that he keeps or has custody of records of accounts of inmates thereof, and that a certain person has been an inmate therein during a certain period at a certain charge and that no satisfactory security was given shall be prima facie evidence of the said facts.

1895, 503, s 9  
R.L. 88, s 7  
1907, 474, s 10  
109, 378  
1911, 396  
1912, 17  
1919, 350, s 96, 97.  
1924, 460, s 1  
500, s 3  
1927, 139

G.L. III, s 66  
1934, 219  
1947, 630  
1951, 562  
1952, 270  
227 Mass. 88.  
237 Mass. 359  
255 Mass. 499  
278 Mass. 515  
5 Op. A.G. 512  
6 Op. A.G. 167

## PUBLIC HEALTH

(CHAP. III) To be inserted in place of section 65A, on page 95)

Section 65A. Treatment of Extra-Pulmonary Tuberculosis; Poliomyelitis and Crippled Children at Lakeville State Sanatorium. The department may admit to the Lakeville State sanatorium persons suffering from extra-pulmonary tuberculosis, persons crippled by poliomyelitis (infantile paralysis), or arthritis, and crippled children as defined in the regulations

of the department; provided, that no person shall be admitted who has not been a resident of the commonwealth for at least twelve months, preceding the date of his application for admission, and that preference shall be given to citizens of the commonwealth.

G.L. (Ter. Ed.) 1936, 346, s 1. 1940, 412.  
III, s 65A. 1941, 506. 1952, 402.





(To be inserted after Section 69D on page 97.)

LEMUEL SHATTUCK HOSPITAL

Section 69E. Upon written application of a registered physician, the department may admit as a patient to the Lemuel Shattuck Hospital, for the treatment of chronic disease, subject to such rules and regulations as the department may prescribe, any person residing in the commonwealth for at least two years within the period of three years immediately prior to the date of such application. Any such patient may be discharged from said hospital either upon his own request or upon determination of the department, but not otherwise.

1954, 522

Section 69F. Notice of admission of a needy person shall be given within ten days to the board of public welfare of the town in which such person resided immediately prior to his admission.

1954, 522

Section 69G. In the case of a needy person not already in receipt of public assistance, the notice of admission shall constitute an application on behalf of the patient. Upon receipt of such application, the board of public welfare shall determine his eligibility for assistance, and if he is found eligible, he shall be granted the type of assistance for which he qualifies, from the date of the notice or application.

1954, 522

Section 69H. The charges for the support of persons receiving care in said hospital shall be at the rate determined from time to time by the department.

1954, 522

Section 69I. A person, his executor, or administrator, shall be liable in contract for such charges except that persons in receipt of public assistance shall have their responsibility for payment of such charges fixed in accordance with the provisions of the particular category of assistance under which they are aided. Persons or kindred bound by law to support such needy persons, not eligible for public assistance, shall be assessed in accordance with a schedule approved by the department. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of said hospital, or that he keeps or has custody of records relating to inmates thereof, and that a person has been a duly admitted patient therein during a stated period at a stated charge, and that said charge has not been paid in whole or in part, and the sworn written statement of an official of the hospital or department that notice of admission of the said patient was given on a stated date to the board of public welfare of prior residence, that the charges for support of said patient were determined pursuant to the provisions of section sixty-nine H, and that no satisfactory security was given for his support, shall be prima facie evidence of the said facts.

1954, 522





**SECTION 67D. Payments of Town not deemed public relief; Effect on Settlement.** Sums paid by any town as provided in the two preceding sections shall not be deemed to have been paid as public relief, and no person shall be deemed to be in receipt of public relief because of his inability to pay such sums, but while such care is being given, such parent or person shall not acquire or lose or be in the process of acquiring or losing a settlement; provided, that the provisions of this section relative to settlement shall not apply to a guardian who is not a parent of such infant or a person bound by law to maintain him.

1937, 332.

**SECTION 69A. Admission, etc., of Patients to Pondville Hospital, and Westfield Sanatorium.** Upon written application of a registered physician, the department may admit as a patient to the Pondville hospital or to the cancer division of Westfield state sanatorium, for treatment for cancer, subject to such rules and regulations as the department may prescribe, any person residing in the commonwealth for at least two years within the period of three years immediately prior to the date of such application. Any such patient may be discharged from said hospital or division either upon his own request or upon determination of the department, but not otherwise.

1928, 336.

G. L. (Ter. Ed.)  
111, § 69A.

1936, 337, § 1.

**SECTION 69B. Department to give Notice, etc.** Notice of admission of each such patient shall be given within thirty days by the department to the board of public welfare of the town whence he is admitted. The department shall ascertain whether or not each such patient has a legal settlement in any town in the commonwealth. If he has such a settlement, the department shall also send written notice of his admission as aforesaid to the board of public welfare of such town. Such notice shall be sent within thirty days after the date of such admission, if his settlement was then known to the department; otherwise within thirty days after his settlement is ascertained by the department.

1928, 336.

G. L. (Ter. Ed.)  
111, § 69B.

**SECTION 69C. Charges for Support of Patients.** The charges for the support of the patients at said hospital or division shall be at a rate determined from time to time by the department and shall be payable at least quarterly. The commissioner may accept security satisfactory to him for the payment of such charges for any period of time. Such charges for those not having known settlements in the commonwealth shall be born by it, and may afterwards be recovered by the state treasurer of the patients, if they are able to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but recovery of such charges for any such patient having a known settlement in the commonwealth may be had, at the election of the department, either from the person or persons bound to pay them or from the town where such patient had his settlement, unless security to the satisfaction of

the commissioner is given for his support. Any suit to recover such charges shall be brought by the state treasurer to the use of the hospital or division. The attorney general and district attorneys shall upon request bring action to recover said charges in the name of the state treasurer. A town which pays the charges or any other sum for the support of a patient at the hospital or division shall have like rights and remedies to recover the amount thereof, with interest and costs, from the town of his settlement or from such person of sufficient ability, or from any person bound by law to maintain him, is if such charges had been incurred in the ordinary support of such patient. In any case where the department elects to recover the charges, as established by this section, for the support of a patient, from a town of settlement, such town shall be liable to pay such sum, not exceeding the cost to the commonwealth, as may be determined by the department. Sums paid as aforesaid by the commonwealth or by any town shall not be deemed to have been paid as state aid or public relief, and no person shall be deemed to be in receipt of public relief because of his inability to pay for his support in said hospital or division, but while receiving such support he shall not acquire or lose, or be in the process of acquiring or losing, a settlement. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of said hospital or of Westfield state sanatorium, as the case may be, or that he keeps or has custody of records relating to inmates thereof, and that a certain person has been a duly admitted patient therein during a certain period at a certain charge, and that said charge has not been paid in whole or in part, and the sworn written statement of the commissioner or of a member of the department that notice of admission of a certain person was given upon a certain date to the board of public welfare of the place of settlement of said person known to or ascertained by said department, that said date was within thirty days after the place of settlement became known to or was ascertained by the department, that the charges for support of such person were determined pursuant to the provisions of this section, and that no satisfactory security was given for his support, shall be prima facie evidence of the said facts.

1928, 336.

G. L. (Ter. Ed.)  
111, § 69C.

1936, 337, § 2.

**SECTION 69D. When Cause of Action, etc., have accrued.** In an action for the recovery of charges against a patient or person or kindred or place of settlement known at time of admission the cause of action shall be deemed to have accrued upon the last day of the period for which such charges are made. In an action against a place of settlement subsequently ascertained the cause of action shall be deemed to have accrued on the date of sending the notice under section sixty-nine B to said place. In an action by any town for recovery of a payment made by it under section sixty-nine C the cause of action shall be deemed to have accrued on the date of such payment.

1928, 336.

G. L. (Ter. Ed.)  
111, § 69D.



## HOSPITALS.

**SECTION 70. Certain Hospitals to keep Records of Cases.** Hospitals supported in whole or in part by contributions from the commonwealth or from any town, incorporated hospitals offering treatment to patients free of charge, and incorporated hospitals conducted as public charities shall keep records of the treatment of the cases under their care and the medical history of the same. Such records may be made in handwriting, or in print, or by type-writing, or by the photographic or microphotographic process, or by any combination of the same. Whenever pre-existing hospital records shall have been photographed or micro-photographed and the photographs or micro-photographs shall have been duly indexed and filed by the hospital, the person in charge of the hospital, upon notifying in writing the supervisor of public records referred to in chapter sixty-six, may destroy the original records so photographed or micro-photographed, and such photographs or micro-photographs shall have the same force and effect as the original records from which they were made. Such records and similar records kept prior to April twenty-fifth, nineteen hundred and five, shall be in the custody of the person in charge of the hospital. Section ten of chapter sixty-six shall not apply to such records; provided, that such records and similar records kept in the custody of the person in charge of the hospital may be inspected by the patient to whom they relate, or by his attorney, upon delivery of a written authorization from the said patient, and a copy shall be furnished upon his request and the payment of a reasonable fee; and provided, further that upon proper judicial order, whether in connection with pending judicial proceedings or otherwise, or, except in the case of records of hospitals under the control of the department of mental health, upon order of the head of the state department having supervision of such hospital, and in compliance with the terms of said order, such records may be inspected and copies furnished on payment of a reasonable fee.

1905, 330, §§ 1, 2.	1941, 194, § 5.	225 Mass. 521.
1908, 269.	389, § 1.	234 Mass. 480.
1912, 442, §§ 1, 2.	1945, 291.	261 Mass. 44.
1923, 337.	3 Op. A. G. 532.	290 Mass. 299.
G. L. 111, § 70.	202 Mass. 359.	302 Mass. 12, 261.
1926, 149.		

*Superseded*

**SECTION 71. Licensing of Hospitals and Sanatoria.** The department shall issue for a term of two years, and may renew for like terms, a license subject to revocation by it for cause, to any person whom it deems responsible and suitable to establish or maintain a hospital, sanatorium, convalescent or nursing home or boarding home for the aged which meets the requirements of the department established in accordance with its rules and regulations. In the case of an original application and an application for the renewal of a license, the local board of health shall first certify to the department, that from its inspection and examination of said hospital, sanatorium, convalescent or nursing home or boarding home for the aged it is suitable for the purpose. Any person aggrieved by the refusal of the local board of health to certify as required above may in writing appeal to the department. The commis-

sioner and the council, acting as the department, shall hold a public hearing and thereafter may modify, affirm or reverse the action of the local board of health. No license shall be issued or renewed hereunder unless there shall be first submitted to the department by the authorities in charge of the hospital, sanatorium, convalescent or nursing home or boarding home for the aged with respect to each building occupied by patients, a certificate of approval of the egresses, the means of preventing the spread of fire and the apparatus for extinguishing fire, issued by an inspector of the division of inspection of the department of public safety. When such an inspector, acting under section twenty-nine of chapter one hundred and forty-three, issues to an applicant for a license to maintain a hospital, sanatorium, nursing home or convalescent home, an acknowledgment of an application for such a certificate, it shall have the same effect as the certificate, and the department shall issue a provisional approval for temporary operation for the same period of time as stated in the acknowledgment. Nothing in this section or in section seventy-two, seventy-two A or seventy-three, shall be construed to revoke, supersede or otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning, registration or maintenance of hospitals, sanatorium, convalescent or nursing homes or boarding homes for the aged. Upon written request by an applicant who is aggrieved by the refusal to issue or renew such a license, or by a holder who is aggrieved by the revocation of such a license, as the case may be, the commissioner and the council shall hold a public hearing after due notice and thereafter may modify, affirm or reverse the action of the department. In no case shall the revocation of such a license take effect in less than thirty days after written notification by the department to the hospital, sanatorium, convalescent or nursing home or boarding home for the aged. The fee for the issue or renewal of each license in the case of a hospital or sanatorium shall be twenty-five dollars and in the case of a convalescent or nursing home or boarding home for the aged shall be ten dollars and the license shall not be transferable or assignable and shall be issued only for the premises named in the application. For the purposes of this section and sections seventy-two, seventy-two A and seventy-three, a hospital or sanatorium is defined as any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution, except an institution caring exclusively for cases of mental diseases and licensed by, or under the general supervision of, the department of mental health. A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three or more persons admitted thereto for the purpose of nursing or convalescent care. A boarding home for the aged is defined as any institution, however



(To be inserted in place of Section 71 on Page 98.)

Section 71. The department shall issue for a term of two years, and may renew for like terms, a license subject to revocation by it for cause, to any person whom it deems responsible and suitable to establish or maintain a hospital, sanatorium, convalescent or nursing home, infirmary maintained in a town, or boarding home for the aged which meets the requirements of the department established in accordance with its rules and regulations. In the case of an original application and an application for the renewal of a license, the local board of health shall first certify to the department, that from its inspection and examination of said hospital, sanatorium, convalescent or nursing home, infirmary or boarding home for the aged it is suitable for the purpose. Any person aggrieved by the refusal of the local board of health to certify as required above may in writing appeal to the department. The commissioner and the council, acting as the department, shall hold a public hearing and thereafter may modify, affirm or reverse the action of the local board of health. No license shall be issued or renewed hereunder unless there shall be first submitted to the department by the authorities in charge of the hospital, sanatorium, convalescent or nursing home, infirmary or boarding home for the aged with respect to each building occupied by patients, a certificate of approval of the egresses, the means of preventing the spread of fire and the apparatus for extinguishing fire, issued by an inspector of the division of inspection of the department of public safety. When such an inspector, acting under section twenty-nine of chapter one hundred and forty-three, issues to an applicant for a license to maintain a hospital, sanatorium, nursing or convalescent home, or infirmary maintained in a town, an acknowledgment of an application for such a certificate, it shall have the same effect as the certificate, and the department shall issue a provisional approval for temporary operation for the same period of the time as stated in the acknowledgment. Nothing in this section or in sections seventy-two, seventy-two A or seventy-three, shall be construed to revoke, supersede or otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning, registration or maintenance of hospitals, sanatoria, convalescent or nursing homes, infirmaries maintained in towns, or boarding homes for the aged. Upon written request by an applicant who is aggrieved by the refusal to issue or renew such a license, or by a holder who is aggrieved by the revocation of such a license, as the case may be, the

commissioner and the council shall hold a public hearing after due notice and thereafter may modify, affirm or reverse the action of the department. In no case shall the revocation of such license take effect in less than thirty days after written notification by the department to the hospital, sanatorium, convalescent or nursing home, infirmary, or boarding home for the aged. The fee for the issue or renewal of each license in the case of a hospital or sanatorium shall be fifty dollars and in the case of a convalescent or nursing home, infirmary maintained in a town, or boarding home for the aged shall be twenty-five dollars and the license shall not be transferable or assignable and shall be issued only for the premises named in the application. For the purposes of this section and sections seventy-two, seventy-two A and seventy-three, a hospital or sanatorium is defined as any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution, except an institution caring exclusively for cases of mental diseases and licensed by, or under the general supervision of, the department of mental health. A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three or more persons admitted thereto for the purpose of nursing or convalescent care. An infirmary maintained in a town is an infirmary which hitherto the department of public welfare has been directed to visit by section seven of chapter one hundred and twenty-one. A boarding home for the aged is defined as any institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing care incident to old age to three or more persons over sixty years of age who are not acutely ill or in need of medical or nursing care. Nursing institutions licensed by the department of mental health for mental cases shall not be licensed or inspected by the department of public health. Convalescent or nursing homes conducted in accordance with the practice and principle of the body known as the Church of Christ, Scientist, shall be inspected by the department under regulations pertaining to sanitation. The inspections herein provided shall be in addition to any other inspections required by law.





named, which is advertised, announced or maintained for the express or implied purpose of providing care incident to old age to three or more persons over sixty years of age who are not acutely ill or in need of medical or nursing care. Nursing institutions licensed by the department of mental health for mental cases shall not be licensed or inspected by the department of public health. Convalescent or nursing homes conducted in accordance with the practice and principle of the body known as the Church of Christ Scientist, shall be inspected by the department for regulations pertaining to sanitation. The inspection herein provided shall be in addition to any other inspections required by law.

1867, 157, §§ 1, 2.	1911, 264.	1941, 661, § 2.
P. S. 80, §§ 56, 57.	1919, 350, § 87.	1945, 527.
R. L. 75, § 62.	G. L. 111, § 71.	1945, 521.
1910, 569.	1931, 213, § 1.	1948, 618, § 1.

**SECTION 72. Department will make Rules and Regulations. Inspection.** The department shall classify all hospitals and sanatoria and shall promulgate rules for the conduct of the same. Such rules and regulations for hospitals and sanatoria shall include minimum requirements for diagnostic and therapeutic facilities for the study, diagnosis and treatment of patients, the keeping of proper medical records, and, in addition in the case of any maternity service, such minimum requirements as are necessary for the identification and protection of infants born therein. The department shall further classify convalescent and nursing homes and boarding homes for the aged, and shall after a public hearing promulgate rules and regulations for the conduct of the same. Such rules and regulations for convalescent and nursing homes and boarding homes for the aged shall include minimum requirements for medical and nursing care, the keeping of proper medical and nursing records and sanitation. The department or its agents and the board of health or its agents of the city or town wherein any portion of such hospital, sanatorium, convalescent home or nursing home or boarding home for the aged is located may visit and inspect such institution at any time.

1876, 157, § 3.	1910, 569.	1942, Op. A. G. 123,
P. S. 80, § 58.	1919, 350, § 87.	131.
1886, 101, § 4.	G. L. 111, § 72.	
R. L. 75, § 63.	1948, 618 § 1.	

*Superseded*

**SECTION 72A. Advisory Committee on Hospitals and Sanatoria.** The department shall appoint an advisory committee on hospitals, sanatoria, convalescent and nursing homes and boarding homes for the aged to consist of representatives of the medical and nursing professions, hospital administrators and hospital trustees, who shall serve at the pleasure of the department, and two of such positions shall at all times be filled by persons appointed upon recommendation of the Massachusetts Hospital Association. Said advisory committee shall also consist of ex-officio members composed of the commissioner of public welfare, the commissioner of mental health and the director of the Massachusetts public building commission. Said committee shall advise the department in any matter pertaining to sections seventy-two, seventy-twoA and seventy-three. Members of said committee shall serve without compensation, but shall receive the necessary traveling

expenses incurred by them in the performance of their duties. Said committee shall meet not less than twice a year, and other meetings may be called by the department on proper notice.

1941, 661, § 2.	1942, Op. A. G. 123,
1948, 618 § 1.	131.

**SECTION 73. Penalty. (2) Rights of Present Licenses Protected.** Whoever establishes or maintains, or is concerned in establishing or maintaining, a hospital, sanatorium, convalescent or nursing home or boarding home for the aged or is engaged in any such business, without a license granted under section seventy-one, or whoever being licensed under said section violates any provision or sections seventy-one to seventy-three, inclusive, or any rule or regulation made under section seventy-two, shall for a first offence be punished by a fine of not more than five hundred dollars, and for a subsequent offence by a fine of not more than one thousand dollars or by imprisonment for not more than two years. Duplicate licenses shall be posted conspicuously for institutions maintained at separate premises, even though they are under the same management.

1942, Op. A. G. 123.	1941, 661, § 2.	1948, 68, § 1.
1942, Op. A. G. 131.		

**SECTION 74. Towns may appropriate Money to be paid to Hospitals for the Reception, etc., of Certain Persons.** Any town not maintaining or managing a hospital may annually appropriate a sum not exceeding one thousand dollars, to be paid to a hospital established in such town or in the vicinity thereof, for the establishment and maintenance of a free bed in the hospital for the care and treatment of persons certified by the selectmen to be residents of the town and unable to pay for such care and treatment. This section shall not apply to cities.

1915, 44.	G. L. 111 § 74.	1941, § 73.
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**SECTION 75. Unlawful Use of Buildings for Hospitals prohibited.** Whoever occupies or uses a building for a hospital in a part of a town prohibited by the aldermen or selectmen shall forfeit not more than fifty dollars for every month of such occupancy or use and in like proportion for a shorter time. The supreme judicial or superior court may restrain such occupancy or use. *see next green page*

1870, 306.	R. L. 75, § 33.	G. L. 111, § 75.
P. S. 80, § 73.	1906, 365, § 1.	

**SECTION 76. Cities and Towns to receive Subsidies for Certain Tuberculosis Cases.** Every town placing its patients suffering from tuberculosis in a county, municipal or incorporated tuberculosis hospital in the commonwealth, or in a building or ward set apart for such patients by a county, municipal or incorporated hospital therein, shall be entitled to receive from the commonwealth a subsidy of five dollars a week for each patient who has a legal settlement therein, provided that such patient is unable to pay for his support, and that his kindred bound by law to maintain him are unable to pay for the same; but a town shall not become entitled to this subsidy unless, upon examination authorized by the department, the sputum of such patient be found to contain bacilli of tuberculosis, nor unless the hospital building or ward be approved by it,



and it shall not give such approval unless it has by authority of law, or by permission of the hospital, full authority to inspect the same at all times. The department may at any time withdraw its approval. In the case of hospitals having a bed capacity which, in the opinion of the department, is in excess of the number of beds needed for the localities which these institutions serve for patients exhibiting tubercle bacilli in their sputum, the subsidy above provided shall be allowed for such patients not exhibiting tubercle bacilli in their sputum as, in the joint opinion of the superintendent or medical director of the institution and of a member of the department designated by the commissioner, are bona fide cases of pulmonary tuberculosis and have been in the institution more than thirty days.

1911, 597, § 1.	1919, 350, § 96.	1926, 284.
1912, 637, § 1.	1920, 238, § 1.	8 Op. A. G. 459.
1916, 57, 197.	G. L. 111, § 76.	8 Op. A. G., 365.
1917, 290.		

**SECTION 77. Payments of Claims.** The department shall certify, in the case of each hospital, building or ward approved by it, as provided in the preceding section, the number of patients for whom the town is entitled to the subsidy, and upon such certification the subsidy shall be paid by the commonwealth. No claim shall be allowed for a subsidy covering more than ten days prior to the date when notice of the claim is received by the department.

1911, 597, § 2.	1919, 350, § 96.	G. L. 111, § 77.
1912, 637, § 2.	1920, 238, §§ 2, 3.	8 Op. A. G. 365.

**SECTION 78. Admission of Patients to Certain County Tuberculosis Hospitals be Based Upon Their Places of Settlement.** The county commissioners of each county in the commonwealth shall provide, as required by sections seventy-eight to ninety, inclusive, adequate hospital care for all persons having settlements in towns having less than one hundred thousand population as determined by the last national census, within the boundaries of their respective counties, irrespective of the residence of such persons, and all residents therein having no settlement within the commonwealth, who are suffering from pulmonary tuberculosis, who need such hospital care and for whom adequate hospital provision does not already exist, and in any such case the tuberculosis hospital in said county shall be deemed to serve each town in the hospital district in said county with respect to the persons for whom hospital provision is required to be provided as aforesaid; provided, that the county commissioners of any county electing so to do shall provide by contract in accordance with section seventy-nine adequate hospital care, as required by sections seventy-eight to ninety, inclusive, for all persons residing in like towns within the boundaries of their county who are suffering from pulmonary tuberculosis, who need such hospital care and for whom adequate hospital provision does not already exist.

1916, 286, §§ 1, 15.	250 Mass. 263.	7 Op. A. G. 411.
1918, 187, § 1.	278 Mass. 515.	Op. A. G. (1927) 147.
1919, 32, § 1.	315 Mass. 263.	Op. A. G. (1930) 59.
1920, 532, § 1.	1945, 505.	Op. A. G. (1932) 29.
1924, 501, § 1.	1946, 310, § 1.	8 Op. A. G. 29.
G. L. 111, § 78.		

**SECTION 79. Contracts for supplying Hospital Facilities for Tuberculosis.** A contract approved by the department after a petition made to it and a public hearing thereon, between the county commissioners of any two or more counties for the express purpose of supplying within a reasonable time, as provided in the conditions of approval of the department, and guaranteeing adequate hospital provision for tubercular patients coming under section seventy-eight, shall be deemed satisfactory compliance with said section for such counties or sections of counties as are designated in said contract; and such contracts shall, subject to the approval of the department, be renewable upon terms satisfactory to the contracting parties; provided, that the term of any such contract entered into by the county commissioners shall not exceed three years; and provided, further, that no such contract shall be approved by the department unless it provides that arrangements made thereunder shall not be discontinued except after one year's written notice by one or more of the contracting counties to the department. If any such contract is not renewed and approved by the department at least six months before it expires, or if any such contract is renewed and the department shall refuse approval on the ground that by reason of changed circumstances the contract will be inadequate properly to protect the public health of the communities affected by it, and the contracting parties do not, at least three months before the time when the previous contract expires, agree to a renewal of the contract upon terms approved by the department, the duties and obligations relative to supplying adequate hospital care for such counties or sections of counties imposed upon county commissioners by sections seventy-eight to ninety, inclusive, shall be in full force and effect. The county commissioners of any county may, in like manner, and subject to the foregoing provisions relative to renewal, contract with the department, for a term of not more than three years, for suitable hospital provision, at not exceeding the actual cost to the commonwealth, for tubercular patients from such county at any state sanatorium designated by the department; provided that no such contract shall be approved by the department unless it provides that arrangements made thereunder shall not be discontinued except after one year's written notice by the department to said county commissioners. No such contract shall be made by the department unless in its opinion suitable accommodations can be furnished at such sanatorium for the treatment and care of such patients without interfering with other functions of such sanatorium. Any such contract with the department shall be deemed satisfactory compliance with section seventy-eight.

For the purposes of this section the trustees for the tuberculosis hospital district comprising Chelsea, Revere and Winthrop, referred to in section ninety, shall be considered as being county commissioners. *see green page*

Op. A. G. (1932) 295.	278 Mass. 515.	Op. A. G. 1935.
Op. A. G. 604.	1936, 343.	

**SECTION 80. "Adequate" Hospital Provision, Term defined.** "Adequate" hospital provision for



(To be inserted in place of Section 79 on Page 100.)

Section 79. A contract approved by the department after a petition made to and a public hearing thereon between the county commissioners of any two or more counties for the express purpose of supplying within a reasonable time, as provided in the conditions of approval of the department, and guaranteeing adequate hospital provision for tubercular patients coming under section seventy-eight, shall be deemed satisfactory compliance with said section for such counties or sections of counties as are designated in said contract; and such contracts shall, subject to the approval of the department, be renewable upon terms satisfactory to the contracting parties; provided, that the term of any such contract entered into by the county commissioners shall not exceed three years; and provided, further, that no such contract shall be approved by the department unless it provides that arrangements made thereunder shall not be discontinued except after one year's written notice by one or more of the contracting counties to the department. If any such contract is not renewed and approved by the department at least six months before it expires, or if any such contract is renewed and the department shall refuse approval on the ground that by reason of changed circumstances the contract will be inadequate properly to protect the public health of the communities affected by it, and the contracting parties do not, at least three months before the time when the previous contract expires, agree to a renewal of the contract upon terms approved by the department, the duties and obligations relative to supplying adequate hospital care for such counties or sections of counties imposed upon county commissioners by sections seventy-eight to ninety, inclusive, shall be in full force and effect. The county commissioners of any county may, in like manner, and subject to the foregoing provisions relative to renewal, contract with the department, for a term of not more than three years, for suitable hospital provision, at not exceeding the actual cost to the commonwealth, for tubercular patients from such county at any state sanatorium designated by the department; provided, that no such contract shall be ap-

proved by the department unless it provides that arrangements made thereunder shall not be discontinued except after one year's written notice by the department to said county commissioners. No such contract shall be made by the department unless in its opinion suitable accommodations can be furnished at such sanatorium for the treatment and care of such patients without interfering with other functions of such sanatorium. Any such contract with the department shall be deemed satisfactory compliance with section seventy-eight. Any city or town, which on June first nineteen hundred and fifty-four is furnishing tuberculosis hospital provision to the satisfaction of the department in a tuberculosis hospital maintained by said city or town or in a building or ward of a hospital set apart by said city or town for its tubercular patients, may contract with any other city or town or with any county or with the department or with a private charitable tuberculosis sanatorium or hospital, for a term of not more than three years, for suitable hospital provision, at not exceeding the actual cost to the city, town, county, commonwealth, department, or private institution, as the case may be, for tubercular patients from said city, town or county, all of said contracts to be subject to department approval and with the provision that arrangements made thereunder shall not be discontinued except after one year's written notice between the contracting parties. The department may contract with any county for care of tubercular patients for a term of not more than three years, said contract being renewable on terms satisfactory to the contracting parties for not more than a similar period, the cost of care to the department not to exceed actual cost to the county and such arrangements between the department and the county shall not be discontinued except after one year's written notice between the contracting parties.

For the purposes of this section the trustee for the tuberculosis hospital district comprising Chelsea, Revere and Winthrop, referred to in section ninety, shall be considered as being county commissioners.





PUBLIC HEALTH

(See page 99 - Insert in place of Section 72A)

SECTION 72A. APPOINTMENT OF A PERSON TO THE ADVISORY COMMITTEE ON HOSPITALS UPON RECOMMENDATION OF MASSACHUSETTS FEDERATION OF NURSING HOMES. The department shall appoint an advisory committee on hospitals, sanatoria, convalescent and nursing homes and boarding homes for the aged to consist of representatives of the medical and nursing professions, hospital administrators and hospital trustees, who shall serve at the pleasure of the department and two of such positions shall at all times be filled by persons appointed upon the recommendation of the Massachusetts Hospital Association, and one of such positions shall at all times be filled by a person appointed upon the recommendation of the Massachusetts

Federation of Nursing Homes. Said advisory committee shall also consist of exofficio members composed of the commissioner of public welfare, the commissioner of mental health and the director of the Massachusetts public building commission. Said committee shall advise the department in any matter pertaining to sections seventy-two, seventy-two A and seventy-three. Members of said committee shall serve without compensation, but shall receive the necessary traveling expenses incurred by them in the performance of their duties. Said committees shall meet not less than twice a year, and other meetings may be called by the department on proper notice.

1941, 661, s 2.

1948, 618, s 1.

1942, Op. A. G. 123, 131.

1952, 176, s 1.



PUBLIC HEALTH

CHAP. III

(to be inserted on page 99 after section 75)

SECTION 76. Every town placing its patients suffering from tuberculosis in a county, municipal or incorporated tuberculosis hospital in the commonwealth, or in a building or ward set apart for such patients by a county, municipal or incorporated hospital therein, shall be entitled to receive from the commonwealth a subsidy of five dollars a week for each patient who has a legal settlement therein, provided that such patient is unable to pay for his support, and that his kindred bound by law to maintain him are unable to pay for the same; but a town shall not become entitled to this subsidy unless, upon examination authorized by the department, the sputum of such patient be found to contain bacilli of tuberculosis, nor unless the hospital building or ward be approved

by it, and it shall not give such approval unless it has by authority of law, or by permission of the hospital, full authority to inspect the same at all times. The department may at any time withdraw its approval. In the case of hospitals having a bed capacity which, in the opinion of the department, is in excess of the number of beds needed for the localities which these institutions serve for patients exhibiting tubercle bacilli in their sputum, the subsidy above provided shall be allowed for such patients not exhibiting tubercle bacilli in their sputum as, in the joint opinion of the superintendent or medical director of the institution and of a member of the department designated by the commissioner, are bona fide cases of pulmonary tuberculosis and have been in the institution more than thirty days.

1911, 597, § 1.  
1912, 637, § 1.  
1916, 57, 197.  
1917, 290  
1919, 350, § 96  
1920, 238, § 1

G.L. III, § 76.  
1926, 284.  
1951, 562.  
1952, 270.  
3 Op. A.G. 459.  
8 Op. A.G. 365.

## CHAP. III

(To be inserted in place of sections 71, 72, 72A and 73, on pages 96 and 99.)

Section 71. Licensing of Hospitals and Sanatoria. The department shall issue for a term of two years, and may renew for like terms, a license subject to revocation by it for cause, to any person whom it deems responsible and suitable to establish or maintain a hospital, sanatorium, convalescent or nursing home, infirmary maintained in a town, or boarding home for the aged which meets the requirements of the department established in accordance with its rules and regulations. In the case of an original application and an application for the renewal of a license, the local board of health shall first certify to the department, that from its inspection and examination of said hospital, sanatorium, convalescent or nursing home, infirmary or boarding home for the aged it is suitable for the purpose. Any person aggrieved by the refusal of the local board of health to certify as required above may in writing appeal to the department. The commissioner and the council, acting as the department, shall hold a public hearing and thereafter may modify, affirm or reverse the action of the local board of health. No license shall be issued or renewed hereunder unless there shall be first submitted to the department by the authorities in charge of the hospital, sanatorium, convalescent or nursing home, infirmary or boarding home for the aged with respect to each building occupied by patients, a certificate of approval of the egresses, the means of preventing the spread of fire and the apparatus for extinguishing fire, issued by an inspector of the division of inspection of the department of public safety. When such an inspector, acting under section twenty-nine of chapter one hundred and forty-three, issues to an applicant for a license to maintain a hospital, sanatorium, nursing or convalescent home, or infirmary maintained in a town, an acknowledgement of an application for such a certificate, it shall have the same effect as the certificate, and the department shall issue a provisional approval for temporary operation for the same period of time as stated in the acknowledgement. Nothing in this section or in sections seventy-two, seventy-two A, or seventy-three, shall be construed to revoke, supersede or otherwise affect any

laws, ordinances, by-laws, rules or regulations relating to building, zoning, registration or maintenance of hospitals, sanatoria, convalescent or nursing homes, infirmaries maintained in towns, or boarding homes for the aged. Upon written request by an applicant who is aggrieved by the refusal to issue or renew such a license, or by a holder who is aggrieved by the revocation of such a license, as the case may be, the commissioner and the council shall hold a public hearing after due notice and thereafter may modify, affirm or reverse the action of the department. In no case shall the revocation of such a license take effect in less than thirty days after written notification by the department to the hospital, sanatorium, convalescent or nursing home, infirmary, or boarding home for the aged. The fee for the issue or renewal of each license in the case of a hospital or sanatorium shall be twenty-five dollars and in the case of a convalescent or nursing home, infirmary maintained in a town, or boarding home for the aged shall be ten dollars and the license shall not be transferrable or assignable and shall be issued only for the premises named in the application. For the purposes of this section and sections seventy-two, seventy-two A and seventy-three, a hospital or sanatorium is defined as any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution, except an institution caring exclusively for cases of mental diseases and licensed by, or under the general supervision of, the department of mental health. A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for three or more persons admitted thereto for the purpose of nursing or convalescent care. An infirmary maintained in a town is an infirmary which hitherto the department of public welfare has been directed to visit by section seven of chapter one hundred and twenty-one. A boarding



home for the aged is defined as any institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing care incident to old age to three or more persons over sixty years of age who are not acutely ill or in need of medical or nursing care. Nursing institutions licensed by the department of mental health for mental cases shall not be licensed or inspected by the department of public health. Convalescent or nursing homes conducted in accordance with the practice and principle of the body known as the Church of Christ, Scientist, shall be inspected by the department under regulations pertaining to sanitation. The inspections herein provided shall be in addition to any other inspections required by law.

1867, 157, ss 1, 2.	G.L. 111, s 71.
P.S. 80, ss 56, 57.	1931, 213, s 1.
R.L. 75, s 62.	1941, 661, s 2.
1910, 569.	1945, 527.
1911, 264.	1945, 521.
1919, 350, s 87.	1946, 618, s 1.
	1952, 602, s 9.

Section 72. Department will make Rules and Regulations. Inspection. The department shall classify all hospitals and sanatoria and shall promulgate rules for the conduct of the same. Such rules and regulations for hospitals and sanatoria shall include minimum requirements for diagnostic and therapeutic facilities for the study, diagnosis and treatment of patients, the keeping of proper medical records, and, in addition in the case of any maternity hospital or maternity service, such minimum requirements as are necessary for the identification and protection of infants born therein. The department shall further classify convalescent and nursing homes, infirmaries maintained in towns, and boarding homes for the aged, and shall after a public hearing promulgate rules and regulations for the conduct of the same. Such rules and regulations for convalescent and nursing homes, infirmaries and boarding homes for the aged shall include minimum requirements for medical and nursing care, the keeping of proper medical and nursing records and sanitation. The department or its agents and the board of health or its agents of the city or town wherein any portion of such hospital sanatorium, convalescent home or nursing home, infirmary or boarding home for the aged is located may visit and inspect such institution at any time.

1876, 157, s 3.	1919, 350, s 87.
P.S. 80, s 58.	G.L. 111, s 72.
1886, 101, s 4.	1948, 618, s 1.
P.L. 75, s 63.	1942, Cp. A. G. 123, 131.
1910, 569.	1952, 605, s 9.

Section 72A. Advisory Committee on Hospitals and sanatoria. The Department shall appoint an advisory committee on hospitals, sanatoria, convalescent and nursing homes, infirmaries maintained in towns, and boarding homes for the aged to consist of representatives of the medical and nursing professions, hospital administrators and hospital trustees, who shall serve at the pleasure of the department, and two of such positions shall at all times be filled by persons appointed upon the recommendation of the Massachusetts Hospital Association. Said advisory committee shall also consist of ex-officio members composed of the commissioner of public welfare, the commissioner of mental health and the director of the Massachusetts public building commission. Said committee shall advise the department in any matter pertaining to sections seventy-two, seventy-two A and seventy-three. Members of said committee shall serve without compensation, but shall receive the necessary traveling expenses incurred by them in the performance of their duties. Said committees shall meet not less than twice a year, and other meetings may be called by the department on proper notice.

1941, 661, s 2.	1942, Op. A. G. 123, 131.
1940, 618, s 1.	1952, 602, s 9.

Section 73. Penalty. (2) Rights of Present Licenses Protected. Whoever establishes or maintains, or is concerned in establishing or maintaining, a hospital, sanatorium, convalescent or nursing home, infirmary maintained in a town, or boarding home for the aged or is engaged in any such business, without a license granted under section seventy-one, or whoever being licensed under said section violates any provision of sections seventy-one to seventy-three, inclusive, or any rule or regulation made under section seventy-two, shall for a first offence be punished by a fine of not more than five hundred dollars, and for a subsequent offence by a fine of not more than one thousand dollars or by imprisonment for not more than two years. Duplicate licenses shall be posted conspicuously for institutions maintained at separate premises, even though they are under the same management.

1941, 661, s 2.	1942, CP. A. G. 131.
1942, Cp. A. G. 123.	1948, 60, s 1.
	1952, 602, s 9.

PUBLIC HEALTH

CHAP. III

(to be inserted after section 76 on page 100)

SECTION 77. The department shall certify, in the case of each hospital, building or ward approved by it, as provided in the preceding section, the number of patients for whom the town is entitled to the subsidy, and upon such

certification the subsidy shall be paid by the commonwealth. No claim shall be allowed for a subsidy covering more than ten days prior to the date when notice of the claim is received by the department.

1911, 597, s 2.

1912, 637, s 2.

1919, 350, s 96.

1920, 238, s 2, 3.

1951, 562.

1952, 270.

G.L. III. s 77.

8 Op. A.G. 365.



## CHAP. III

(to be inserted after section 77 on page 100)

SECTION 78. The county commissioners of each county in the commonwealth shall provide, as required by sections seventy-eight to ninety, inclusive, adequate hospital care for all persons having settlements in towns having less than one hundred thousand population as determined by the last national census, within the boundaries of their respective counties, irrespective of the residence of such persons, and all residents therein having no settlement within the commonwealth, who are suffering from pulmonary tuberculosis, who need such hospital care and for whom adequate hospital provision does not already exist, and in any such case the tuberculosis hospital in said

county shall be deemed to serve each town in the hospital district in said county with respect to the persons for whom hospital provision is required to be provided as aforesaid; provided, that the county commissioners of any county electing so to do shall provide by contract in accordance with section seventy-nine adequate hospital care, as required by section seventy-eight to ninety, inclusive, for all persons residing in like towns within the boundaries of their county who are suffering from pulmonary tuberculosis, who need such hospital care and for whom adequate hospital provision does not already exist.

1916, 286, s 1, 15.

1918, 187, s 1.

1919, 32, s 1.

1920, 532, s 1.

1924, 501, s 1.

G.L. III, s 78.

250 Mass. 263.

278 Mass. 515.

315 Mass. 263.

1945, 505.

1946, 310, s 1.

1951, 562.

1952, 270.

7 Op. A.G. 411.

Op. A.G. (1927) 147.

Op. A.G. (1930) 59.

Op. A.G. (1932) 29.

8 Op. A.G. 29.

PUBLIC HEALTH

CHAP. III.

(to be inserted after section 79 on pages 100  
and 101)

SECTION 80. "Adequate" hospital provision for tubercular patients within the meaning of sections seventy-eight to ninety-one inclusive, shall be held to mean at least one such hospital bed for each four deaths from tuberculosis in the district served by such hospitals, as determined by computing the average number of

deaths from tuberculosis per annum for the years nineteen hundred and sixteen to nineteen hundred and twenty, inclusive, in the communities served by such hospitals, and by a similar quinquennial computation by the department thereafter.

1916, 286, s. 3.

1919, 32, s. 2.

350, s. 96.

G. L. III, s. 80.

250 Mass. 265.

252 Mass. 409.

254 Mass. 233.

7 Op. A. G. 411.

Op. A. G. (1930) 60.

1951, 562.

1952, 270.



## PUBLIC HEALTH

### CHAP. III

(to be inserted after section 83A on pages 101 and 102)

SECTION 85. The county shall provide for the maintenance, operation and repair of said hospital, which shall, for the purposes of this section and section eighty-five A. include the maintenance, operation and repair of any preventorium erected by said county in accordance with section eighty-five B and also the cost of its construction and original equipment except when the cost of its construction, original equipment, maintenance, operation or repair is provided under said section eighty-five B to be paid from appropriations, and shall for said purposes include the establishment and maintenance of out-patient departments and the furnishing of supplementary diagnostic service under section eighty-five C; provided, that the expenditure of money for the purposes of this section shall be limited to such amounts as may be authorized by the general court. Every town shall pay to the county the sum of ten dollars and fifty cents per week for each person admitted from such town to said hospital in accordance with section eighty-eight. The county commissioners shall annually in January apportion the balance of the cost of the maintenance, operation and repair of said hospital, including interest paid or due on temporary notes issued therefor, for the previous year to the towns situated in the district, so that sixty-five per cent of such balance shall be apportioned on the basis of valuation as used in assessing county taxes and thirty-five per cent thereof shall be apportioned to such towns.

only as have had patients in said hospital during said year and in such proportion as the number of patient days chargeable to any town bears to the total number of patient days of all patients in said hospital during said year; and shall issue their warrants against the towns for the amount for which they are severally assessed to pay for the maintenance, operation and repair of said hospital. The county may, thirty days after a written demand for payment, recover in contract against any town liable to pay any part of the cost of construction or of the maintenance, operation and repair of said hospital the amount for which it may be liable. County commissioners of counties whose patients are cared for by contract under section seventy-nine may raise and expend the sums necessary to carry out the provisions thereof, and may borrow the same on the credit of the county, and issue therefor notes of the county, payable, in not more than eighteen months from their respective dates of issue, from the reimbursements received from said towns. They shall annually in January determine the total amount already expended by or due from the county under such contracts during the previous year, and shall apportion the same to and may collect the same from the several towns liable in like manner as in counties having their own hospitals, and the same shall be applied to the payment of the temporary debt incurred by said counties.

1923, 103 s 3.  
1928, 354, s 1.  
G.L. (Ter. Ed)  
III, s 85A

1932, 65.  
1951, 562.  
1952, 270.



tubercular patients within the meaning of sections seventy-eight to ninety-one, inclusive, shall be held to mean at least one such hospital bed for each four deaths from tuberculosis in the district served by such hospitals, as determined by computing the average number of deaths from tuberculosis per annum for the years nineteen hundred and sixteen to nineteen hundred and twenty, inclusive, in the communities served by such hospitals, and by a similar quinquennial computation by the department thereafter.

1916, 286, § 3.	G. L. 111, § 80.	254 Mass. 233.
1919, 32, § 2;	250 Mass. 265.	7 Op. A. G. 411.
350, § 96	252 Mass. 409.	Op. A. G. (1930) 60.

**SECTION 81. County Commissioners to erect One or More Hospitals.** Except as otherwise provided in section seventy-eight to ninety, inclusive, or unless a contract has been entered into under section seventy-nine and approved by the department or made with said department, county commissioners shall, subject to the approval of the department, erect one or more tuberculosis hospitals within their respective counties. No new tuberculosis hospital shall be erected under sections seventy-eight to ninety, inclusive, having a total capacity of less than fifty beds; provided, that in the county of Berkshire a hospital may be constructed having a capacity of as many less than fifty beds as the department shall approve.

1916, 286, § 5.	252 Mass. 409.	7 Op. A. G. 411.
1917, 108.	254 Mass. 233.	Op. A. G. (1928) 45.
1919, 350, § 96.	278 Mass. 515.	Op. A. G. (1930) 60.
1924, 500, § 2.	5 Op. A. G. 33; 514.	Op. A. G. (1942) 131.
G. L. 111, § 81.		

**SECTION 83. To apportion Cost to Cities and Towns, etc. Remedy for Refusal to pay Proportion of Cost.** When the hospital is completed and equipped, the county commissioners shall determine the cost of the same, together with the interest paid or due on the bonds or notes issued therefor, and shall apportion the same to the several towns liable, in accordance with their valuation used in assessing county taxes. And each town liable to contribute to the construction and equipment of said hospital shall pay its proportion of said expenses into the county treasury in such manner and in such instalments as the county commissioners by special order shall direct; and if any town shall neglect or refuse to pay its proportion as required by said order, the county commissioners shall, after notice to the town and unless sufficient cause is shown to the contrary, issue a warrant against it for the sum which it was ordered to pay, with interest, and the costs of the notice and warrant; and the same shall be collected and paid into the county treasury, to be applied in payment of the expenses aforesaid.

1916, 286, § 7.	252 Mass. 409.	Op. A. G. (1928) 45.
G. L. 111, § 83.	7 Op. A. G. 411.	Op. A. G. (1930) 60.
250 Mass. 264.		

**SECTION 83A. Indemnification, etc., of Certain Employees of County Hospitals.** The county commissioners of any county, acting as trustees of a hospital established therein under sections seventy-eight to ninety, inclusive, may effect insurance providing indemnity for or protection to the officers and employees of such hospital against loss by reason of their liability to pay damages to others for bodily injuries, including death at any time resulting therefrom, caused by the operation, within the scope of their official duties or employment, of motor or other vehicles owned by the district maintaining such hospital, to an amount not exceeding five thousand dollars on account of the injury to or death of one person. The expense of such insurance shall be included as a part of the cost of maintenance of such hospital.

The provisions of the preceding sections shall apply only to causes of action arising after their effective date.

1933, 318, § 6.	1934, 291, § 5.
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**SECTION 85. Apportionment of Cost of Hospitals.** The county shall provide for the maintenance, operation and repair of said hospital, which shall, for the purposes of this section and section eighty-five A, include the maintenance, operation and repair of any preventorium erected by said county in accordance with section eighty-five B and also the cost of its construction and original equipment except when the cost of its construction, original equipment, maintenance, operation or repair is provided under said section eighty-five B to be paid from appropriations, and shall for said purposes include the establishment and maintenance of outpatient departments and the furnishing of supplementary diagnostic service under section eighty-five C; provided, that the expenditure of money for the purposes of this section shall be limited to such amounts as may be authorized by the general court. Every town shall pay to the county the sum of ten dollars

1916, 286, § 6	1922, 393, § 1.	G. L. 111, § 82.
1918, 80.	1923, 113, § 1.	7 Op. A. G. 411.
1920, 87; 336.	1927, 87.	



and fifty cents per week for each person admitted from such town to said hospital in accordance with section eighty-eight. The county commissioners shall annually in January apportion the balance of the cost of the maintenance, operation and repair of said hospital, including interest paid or due on temporary notes issued therefor, for the previous year to the towns situated in the district, so that sixty-five per cent of such balance shall be apportioned on the basis of valuation as used in assessing county taxes and thirty-five per cent thereof shall be apportioned to such towns only as have had patients in said hospital during said year and in such proportion as the number of patient days chargeable to any town bears to the total number of patient days of all patients in said hospital during said year; and shall issue their warrants against the towns for the amount for which they are severally assessed to pay for the maintenance, operation and repair of said hospital. The county may, thirty days after a written demand for payment, recover in contract against any town liable to pay any part of the cost of construction or of the maintenance, operation and repair of said hospital the amount for which it may be liable. County commissioners of counties whose patients are cared for by contract under section seventy-nine may raise and expend the sums necessary to carry out the provisions thereof, and may borrow the same on the credit of the county, and issue therefor notes of the county, payable, in not more than eighteen months from their respective dates of issue, from the reimbursements received from said towns. They shall annually in January determine the total amount already expended by or due from the county under such contracts during the previous year, and shall apportion the same to and may collect the same from the several towns liable, in like manner as in counties having their own hospitals, and the same shall be applied to the payment of the temporary debt incurred by said counties.

1916, 286, § 9.  
1917, 251, § 2.  
1928, 118, § 2.  
1927, 78, § 2.  
1928, 354, § 2.

G. L. 111, § 85.  
1943, 414, § 1.  
1943, 500, § 1.  
250 Mass. 264.  
252 Mass. 409.

(See 1943, 500, § 3.)  
315 Mass. 267.  
7 Op. A. G. 411.  
Op. A. G. (1928) 45.  
Op. A. G. (1930) 60.

**SECTION 85A. County Commissioners may borrow Money, etc., for County Tuberculosis Hospitals.** To provide such funds as may be necessary to meet the cost of the care, maintenance and repair of a county tuberculosis hospital in compliance with section eighty-five, the county commissioners may in any year borrow money on the credit of the county by temporary loans without specific authorization by the general court, and for such purposes the county treasurer may, with the approval of the county commissioners, issue notes of the county therefor, maturing in not more than twelve months from their dates, and may from time to time renew the same, until all the towns liable to assessment under said section eighty-five have paid to the county treasurer the sums so assessed against them for the aforesaid cost for said year. Receipts of said hospital shall be paid to the county treasurer at such times as the county commissioners may determine. Receipts of said hospital for said year

and payments to the county of the assessments made under section eighty-five to meet the aforesaid cost for said year shall be applied to the payment of the cost of maintenance or to the payment of such temporary loans.

1923, 108, § 3.  
1928, 354, § 1.

G. L. (Ter. Ed.)  
111, § 85A.

1932, 65.

**SECTION 85B. Care and Treatment of Children predisposed or susceptible to Tuberculosis, by County.** The county commissioners of any county having a tuberculosis hospital established under sections seventy-eight to ninety, inclusive, may provide, with the approval of the department, proper and necessary buildings and other equipment for a preventorium for the treatment of children predisposed or susceptible to tuberculosis, at a cost not to exceed three thousand dollars in any calendar year and any sums so expended, unless provided to be paid from sums appropriated therefor as hereinafter provided, shall be included in the cost of the care, maintenance and repair of said hospital as provided in section eighty-five. The county commissioners of any county may provide for the construction of such a preventorium and/or for its care, maintenance therefor; provided, that not more than three thousand dollars shall be so appropriated in any one calendar year. The county commissioners of any county not having a tuberculosis hospital established as aforesaid may contract with a privately controlled preventorium, approved by the department, for the care and treatment of children in such county predisposed or susceptible to tuberculosis whose parents or guardians are unable to support or care for them, at a cost to the county of such sum as may be appropriated therefor, not exceeding three thousand dollars in any one calendar year; provided, that not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by it shall be paid by the county under any such contract. At any time when the cost of the care, maintenance and repair of a preventorium is provided to be paid from an appropriation, said preventorium shall be available for the treatment of children as aforesaid throughout the county. No such child shall be admitted to a preventorium, whether publicly or privately controlled, except with the approval of the county commissioners.

1927, 78, § 1.  
1928, 354, § 1.

G. L. (Ter. Ed.)  
111, § 85B.

315 Mass. 268.

**SECTION 85C. Diagnostic service in respect to Tuberculosis, etc.** The county commissioners of each county, in making adequate hospital provision for tubercular patients, as required by sections seventy-eight to ninety-one, inclusive, may provide such adequate out-patient departments as they deem proper to afford to persons entitled thereto diagnostic service in respect to tuberculosis and to furnish advice as to their care and treatment, and the county commissioners of any county may, on request of the board of health of a town in their tuberculosis hospital district, supplement local facilities in such town in furnishing such diagnostic service.

1931, 86, § 1.

G. L. (Ter. Ed.)  
111, § 85C.



**SECTION 86. County Commissioners may take Land.** Subject to section eighty-two, county commissioners may purchase, lease, or take by eminent domain under chapter seventy-nine, such land, not exceeding five hundred acres, as they may deem necessary or convenient for the purposes set forth in sections seventy-eight to ninety, inclusive.

1916, 286, § 10.  
1922, 398, § 2.

1924, 448; 500.  
250 Mass. 264.

7 Op. A. G. 411.  
Op. A. G. (1930) 60.

**SECTION 87. Trustees of the County Tuberculosis Hospital within the County of Bristol shall be appointed by the Governor.** Except as otherwise provided for the tuberculosis hospital for Bristol county, county commissioners shall be trustees of the hospitals erected under section seventy-eight to ninety, inclusive, shall make suitable regulations for their government, and shall appoint superintendents and other officers and employees necessary for the proper conduct thereof. The superintendents and other physicians employed shall be appointed subject to the approval of the department.

1916 286, § 11.  
1919, 350, § 96.  
1924, 448; 500.  
1945, 398, § 1.

250 Mass. 264.  
315 Mass. 268.  
Op. A. G. (1927) 147.

7 Op. A. G. 411.  
Op. A. G. (1928) 45.  
Op. A. G. (1930) 60.

**SECTION 87A. Trustees of Bristol County Tuberculosis Hospital.** The trustees of the hospital erected, under sections seventy-eight to ninety, inclusive, within the county of Bristol, shall be appointed by the governor, with the advice and consent of the council, for terms of three years each, from residents of the tuberculosis hospital district served by said hospital; provided, that at no time shall more than one trustee of such hospital be a resident of any one city or town in said district. Said trustees shall make suitable regulations for the government of such hospital and shall appoint a superintendent and such other officers and employees as are necessary for the proper conduct thereof. The superintendent and other physicians employed shall be appointed subject to the approval of the department. All pertinent provisions of law relative to county commissioners as trustees of such hospitals shall, in the case of the hospital within the county of Bristol, apply to the trustees thereof.

1945, 398, § 2.

**SECTION 88. Admission of patients.** Patient shall be admitted to said hospitals through application by the boards of health of the towns served by such hospitals, and all patients shall be admitted in the order of their application. Upon the request of any registered physician the board of health shall forward forthwith to the hospital an application for admission of any person found to be afflicted with pulmonary tuberculosis; provided, that if a person found to be so afflicted resides in a town in the hospital district of a county where admission of patients is based on their place of settlement and has a settlement in a town in the hospital district of another such county, the board of health of the town where such person resides shall give notice of the case to the board of health of the town of settlement which shall make application for the admission of such person to the hospital serving the town of settlement. The charge for the support of a patient in

any of said hospitals shall be paid by the town sending him to the hospital except that, if the patient has no known settlement in the commonwealth, the charge shall be paid by it, upon the approval of the bills by the department of public welfare, in the manner provided by section one hundred and sixteen. Such charges may afterward be recovered by the town or by the state treasurer, as the case may be, from the patient, if he is able to pay, or from any person or kindred bound by law to maintain him, in the manner provided by section sixty-six for the recovery of unpaid charges for the support of inmates of the state sanatoria. Patients may be discharged only in accordance with rules and regulations established by the medical staff of the hospital and approved by the superintendent thereof. *See green page*

1916, 286, § 12.  
1919, 350, § 87.  
G. L. 111, § 88.

1924, 448, 500.  
1945, 500, § 2.  
1946, 310, § 2.

254 Mass. 233.  
7 Op. A. G. 411.

**SECTION 88A. Emergency and Non-Emergency Admissions.** If a person, residing in a town in the hospital district of a county where admission of patients is based on their place of settlement and having a settlement in a town in the hospital district of another such county, is found to be afflicted with pulmonary tuberculosis and his case is, in the opinion of the superintendent of the hospital in whose district he resides, an emergency one, he may be admitted to the hospital on application of the board of health of the town in which he resides and the town of settlement shall be liable to the town of residence at the rate of six dollars for each day while such person is a patient at such hospital. The period of such emergency and hospitalization shall be determined by the superintendent of the hospital. Whenever accommodations are available, patients not entitled to be admitted under section eighty-eight and not emergency cases may be admitted on terms approved by the trustees but not at rates lower than the total approximate cost for patients entitled to be admitted under section eighty-eight.

1945, 500, § 2.

1946, 310, § 2.

**SECTION 89. Situation, Plans, etc., to be approved by State Department.** The situation, plans for construction and actual construction of new hospitals, or additions to existing hospitals, provided for carrying out sections seventy-eight to ninety, inclusive, shall be subject to the approval of the department.

1916, 286, § 13.  
1917, 251, § 3.

G. L. 111, § 89.  
1919, 350, § 96.

7 Op. A. G. 411.

**SECTION 90. Certain Officials to act for Cities of Chelsea and Revere and for Town of Winthrop.** The mayors of Chelsea and Revere and the chairman of the selectmen of Winthrop shall have and exercise, for the purposes of sections seventy-eight to eighty-nine, inclusive, the powers given to county commissioners, and they are hereby designated as a board of trustees for the tuberculosis hospital district comprising Chelsea, Revere and Winthrop, and they shall provide adequate hospital care for persons residing therein suffering from tuberculosis who need such hospital care in like manner as required of county commissioners by section seventy-eight.

1916, 286, § 14.  
G. L. 111, § 90.  
1924, 448; 500.

250 Mass. 265.  
Op. A. G. (1930) 60.  
Op. A. G. (1942) 131.

See also Acts of 1929  
363.



**SECTION 91. Exemptions.** Cities having one hundred thousand or more inhabitants as determined by the last national census, and cities and towns having less than one hundred thousand inhabitants as determined as aforesaid and already possessing and continuing to furnish satisfactory tuberculosis hospital provision, shall be exempt from the provisions of sections seventy-eight to ninety, inclusive; provided, that no city included within a tuberculosis hospital district shall become entitled to such exemption by reason of any change in the number of inhabitants of such city and provided, further, that each city or town of less than one hundred thousand inhabitants as aforesaid, which on July first, nineteen hundred and twenty-seven or at any time thereafter shall have failed to furnish tuberculosis hospital provision to the satisfaction of the department in a tuberculosis hospital maintained by said city or town or in a building or ward of a hospital set apart by it for its tubercular patients, shall, upon receipt of written notification from the department of such failure, become and be a part of the district of the tuberculosis hospital for the county or section thereof in which such city or town is situated; and provided, further, that any city or town may, at any time upon application and payment of its proportionate share of the actual construction costs, as hereinafter provided, of said county tuberculosis hospital, if any, become a part of the hospital district of the county or section thereof in which it is situated. Each city or town becoming by reason of its failure to comply with this section or upon application as aforesaid, a part of a county hospital district shall pay to the district treasurer its proportionate share of the actual construction costs of said county tuberculosis hospital, if any, including land, buildings and equipment, computed as of the date of such failure or such application. In case the city council of such city or the selectmen of such town and the trustees of such county tuberculosis hospital do not agree on the amount of such proportionate share within three months after the receipt by said city or town of written notification from the department of failure as aforesaid or within three months after application as aforesaid, the amount of such share shall be determined by a valuation board consisting of the mayor of the city or the chairman of the board of selectmen of the town, a person to be selected forthwith after the expiration of said three months' period by the county commissioners of the county in which such city or town is situated, and a third person to be selected by the other two. If the representatives of the city or town and the county do not, within thirty days after the selection of the county representative on said board, agree upon a third member thereof, such third member shall, on petition therefor, by any party in interest to the supreme judicial court, be appointed by a justice thereof. The decision of a majority of said valuation board shall be final.

1916, 286, § 4.  
1924, 443, § 2;  
501, § 2.

G. L. 111, § 91.  
1930, 339.  
250 Mass. 266.

313 Mass. 263.  
7 Op. A. G. 411.

**SECTION 92. Maintenance of Isolation Hospitals, etc. Exceptions**—Each city, except Brockton, shall, and each town may, and upon request of the department shall, establish and maintain constantly within its limits one or more hospitals for the reception of persons having smallpox, diphtheria, scarlet fever, tuberculosis or other diseases dangerous to the public health as defined by the department, unless there already exists therein a hospital satisfactory to the department for the reception of persons ill with such diseases, or unless some arrangement satisfactory to the department is made between neighboring municipalities for the care of such persons. All such hospitals established and maintained by cities and towns shall be subject to the orders and regulations of the board of health thereof. Plans for construction of such hospitals shall be approved by the department before they are constructed, and the district health officers shall annually make such examination of said hospitals, and of all other hospitals, sanatoria, asylums, homes, prisons and dispensaries, both public and private, caring for diseases dangerous to the public health, as in the opinion of the department may be necessary, and report as to their condition and needs to those responsible for their management. A city or town which, upon the request of the department, refuses or neglects to establish and maintain such a hospital shall forfeit not more than five hundred dollars; provided, that if, in the opinion of the boards of health of two or more adjoining municipalities, such hospitals can advantageously be established and maintained in common, the authorities of the said cities or towns may, subject to the approval of the department, enter into any agreements deemed necessary to establish and maintain the same. Cities and towns having a population of less than one hundred thousand inhabitants according to the last national census shall not be required by this section to make hospital provisions for tubercular patients.

[Nothing in this act shall be construed as in any way preventing the cities of Lynn, Lawrence, Haverhill, Salem and Newburyport from becoming a part of the Essex County Tuberculosis Hospital District in accordance with the provisions of chapter four hundred and forty-three of the acts of the current year (1924).]

1792, 58, § 2.  
R. S. 21, §§ 35, 36.  
G. S. 26, §§ 40, 41.  
P. S. 80, §§ 70, 71.  
1901, 171.  
R. L. 75, §§ 35, 40.  
1906, 365, § 1.

1911, 613.  
1912, 151.  
1914, 647.  
1916, 286, § 15.  
1919, 350, § 96.  
1920, 108, § 1.  
G. L. 111, § 92.

1924, 443, § 2;  
501, § 3.  
186 Mass. 282.  
187 Mass. 150.  
237 Mass. 359; 498.  
Op. A. G. (1927) 52.  
8 Op. A. G. 211.

[NOTE.—A public hospital for the treatment of tuberculosis is not as a matter of law a nuisance. *Cook v City of Fall River*, 239 Mass. 90.]

**SECTION 93. Physicians, Nurses, etc., to be Subject to Regulations.** Physicians, nurses, attendants, patients and all persons approaching or coming within the limits of such hospitals, and all furniture and other articles used or brought there, shall be subject to the regulations of the board of health.

1792, 58, § 4.  
R. S. 21, § 39.  
G. S. 26, § 43.

P. S. 80, § 74.  
R. L. 75, § 36.  
1906, 365, § 1.

G. L. 111, § 93.  
237 Mass. 359.



(To be inserted in place of Section 91 on Page 104.)

Section 91. Exemptions. Cities having one hundred thousand or more inhabitants as determined by the last national census, and cities and towns having less than one hundred thousand inhabitants as determined as aforesaid and already possessing and continuing to furnish satisfactory tuberculosis hospital provision, shall be exempt for the provisions of sections seventy-eight to ninety, inclusive; provided, that no city included within a tuberculosis hospital district shall become entitled to such exemption by reason of any change in the number of inhabitants of such city, and provided, further, that each city or town of less than one hundred thousand inhabitants as aforesaid, which on July first, nineteen hundred and twenty-seven or at any time thereafter shall have failed to furnish tuberculosis hospital provision to the satisfaction of the department in a tuberculosis hospital maintained by said city or town or in a building or ward of a hospital set apart by it for its tubercular patients, or in any other public or private facility caring for patients with tuberculosis shall, upon receipt of written notification from the department of such failure, become and be a part of the district of the tuberculosis hospital for the county or section thereof in which such city or town is situated; and provided, further, that any city or town may, at any time upon application and payment of its proportionate share of the actual construction costs, as hereinafter provided, of said county tuberculosis hospital, if any, become a part of the hospital district of the county or section thereof in which it is situated. Each city or town becoming, by reason of its failure to comply with this section or upon application as aforesaid, a part of a county hospital district shall pay to the district treasurer its proportionate share of the actual construction costs of said county tuberculosis hospital, if any, including land, buildings and equipment, computed as of the date of such failure or such application. In case the city council of such city or the selectmen of such town and the trustees of such county tuberculosis hospital do not agree on the amount of such proportionate share within three months after the receipt by said city or town of written notification from the department of failure as aforesaid or within three months after application as aforesaid, the amount of such share shall be determined by a valuation

board consisting of the mayor of the city or the chairman of the board of selectmen of the town, a person to be selected forthwith after the expiration of said three months' period by the county commissioners of the county in which such city or town is situated, and a third person to be selected by the other two. If the representatives of the city or town and the county do not, within thirty days after the selection of the county representative on said board, agree upon a third member thereof, such third member shall, on petition therefor by any party in interest to the supreme judicial court, be appointed by a justice thereof. The decision of a majority of said valuation board shall be final.

1954, 538, s.5

Section 91A. When, in the opinion of the county commissioners of any county or the trustees of the Bristol county tuberculosis hospital, there is no longer need in said county for hospital facilities for the treatment and care of those suffering from pulmonary tuberculosis, the commissioners, or the trustees of Bristol county sanatorium, upon approval of the department, may convert any tuberculosis hospital into a home for the care and treatment of aging persons and may from time to time fix the charge for board, care and treatment at not more than the actual cost to the county or district. Following any such conversion the home shall be continued under the general supervision of the department of public health.

1954, 538, s.6

Section 91B. When, in the opinion of the board of health of any city or town, there is no longer any need in said city or town for hospital facilities for the treatment and care of those suffering from pulmonary tuberculosis, the board of health, upon approval of the department, may convert any tuberculosis hospital into a home for the care and treatment of aging persons at not more than the actual cost to the city or town. Following any such conversion the home shall be continued under the general supervision of the department of public health.

1954, 538, s.6





(to be inserted in place of section 88 on page 103)

SECTION 88. Patients shall be admitted to said hospitals through application by the boards of health of the towns served by such hospitals, and all patients shall be admitted in the order of their application. Upon the request of any registered physician the board of health shall forward forthwith to the hospital an application for admission of any person found to be afflicted with pulmonary tuberculosis; provided that if a person found to be so afflicted resides in a town in the hospital district of a county where admission of patients is based on their place of settlement and has a settlement in a town in the hospital district of another such county, the board of health of the town where such person resides shall give notice of the case to the board of health of the town of settlement which shall make application for the admission of such person to the hospital serving the town of settlement. The charge for the support of a patient in any of

said hospitals shall be paid by the town sending him to the hospital except that, if the patient has no known settlement in the commonwealth, the charge shall be paid by it, upon the approval of the bills by the department of public welfare, in the manner provided by section one hundred and sixteen. Such charges may afterward be recovered by the town or by the state treasurer, as the case may be, from the patient, if he is able to pay, or from any person or kindred bound by law to maintain him, in the manner provided by section sixty-six for the recovery of unpaid charges for the support of inmates of the state sanatoria. Patients may be discharged only in accordance with rules and regulations established by the medical staff of the hospital and approved by the superintendent thereof.

1916, 286, s 12.	1946, 310, s 2.
1919, 350, s 87	254 Mass. 233.
G.L. III, s 88.	7 Op. A.G. 411.
1924, 443, 500	1951, 562.
1943, 500, s 2.	1952, 270



CHAP. III

(to be inserted after section 88A on page 103)

SECTION 88B. If a person, residing in a town in the hospital district of a county where admission of patients is based on their place of settlement and having a settlement in a town in the hospital district of another such county, is found to be afflicted with pulmonary tuberculosis and his case is, in the opinion of the superintendent of the hospital in whose district he resides, an emergency one, he may be admitted to the hospital on application of the board of health of the town in which he resides and the town of settlement shall be

liable to the town of residence at the rate of six dollars for each day while such person is a patient at such hospital. The period of such emergency and hospitalization shall be determined by the superintendent of the hospital. Whenever accommodations are available, patients not entitled to be admitted under section eighty-eight and not emergency cases may be admitted on terms approved by the trustees but not at rates lower than the total approximate cost for patients entitled to be admitted under section eighty-eight.

**SECTION 94. Cities and Towns having Isolation Hospitals may receive Persons from Adjoining Towns.** The board of health of any town which has established or which may hereafter establish within its limits a hospital for the reception of persons having smallpox or any other disease dangerous to the public health may receive for care and treatment in such hospital persons from an adjoining town who are infected with any of said diseases.

1902, 206, § 1.  
1906, 365, § 4.

187 Mass. 150.

G. L. 111, § 94.

**SECTION 95. Duties of Boards in Cases of Infectious Diseases, including Removal of Person.** If a disease dangerous to the public health breaks out in a town, or if a person is infected or lately has been infected therewith, the board of health shall immediately provide such hospital or place of reception and such nurses and other assistance and necessities as is judged best for his accommodation and for the safety of the inhabitants, and the same shall be subject to the regulations of the board. The board may cause any sick or infected person to be removed to such hospital or place, if it can be done without danger to his health; otherwise the house or place in which he remains shall be considered as a hospital, and all persons residing in or in any way connected therewith shall be subject to the regulations of the board, and, if necessary, persons in the neighborhood may be removed. When the board of health of a town shall deem it necessary, in the interest of the public health, to require a resident wage earner to remain within such house or place or otherwise to interfere with the following of his employment, he shall receive from such town during the period of his restraint compensation to the extent of three fourths of his regular wages; provided, that the amount so received shall not exceed two dollars for each working day.

1701-2, 9, §§ 1, 2.  
1792, 58, § 5.  
1797, 16, § 1.  
R. S. 21, §§ 16,  
17, 40.  
1837, 244, §§ 1, 2.  
1838, 158.

1848, 119.  
G. S. 26, §§ 16,  
17, 44.  
P. S. 80, §§ 40,  
41, 75.  
R. L. 75, § 42.  
1906, 225; 365, § 1.

1907, 445.  
G. L. 111, § 95.  
137 Mass. 554.  
140 Mass. 314.  
137 Mass. 150.  
191 Mass. 78.  
301 Mass. 153.

The board has no authority under this section to take possession of a house. *Brown v. Murdock*, 140 Mass. 314. When it does so without a warrant, the owner's remedy is not an action of contract (*Spring v. Hyde Park*, 137 Mass. 554), unless he has leased the premises to the defendant (*Sallinger v. Smith*, 192 Mass. 317); but he can recover in an action of tort for damage to the property even where his tenant at will has, without his authorization, allowed the board to take possession of the house. *Hersey v. Chapin*, 162 Mass. 176.

**SECTION 96. Warrants to remove Sick Persons, etc.** A magistrate authorized to issue warrants may issue a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring him, under the direction of the board of health, to remove any person infected with a disease dangerous to the public health or who is a carrier of the causative agent thereof, or to take control of convenient houses and lodgings, and to impress into service and use such convenient houses, lodgings, nurses, attendants and other necessities.

The removal authorized by this section may be made to a hospital in any town established for the reception of persons having diseases dangerous to the public health; provided, that the assent of the board of health of the town to which such removal is to be made shall first have been obtained.

1701-2, 9, § 3.  
1749-3, 17, § 1.  
1797, 16, § 4.  
R. S. 21, § 19.  
G. S. 26, § 19.  
1877, 211, § 1.

P. S. 80, § 43.  
R. L. 75, § 46.  
1902, 206, § 2.  
1906, 365, § 2.  
G. L. 111, § 96.  
1915, 12.

1938, 265, § 8.  
162 Mass. 176.  
191 Mass. 78.  
206 Mass. 365.  
7 Op. A. G. 587.

If a board of health, not proceeding under this section, leases a building to be used as a contagious hospital, a mortgagee may under some circumstances have a right to recover for the injury to the premises. *Delano v. Smith*, 206 Mass. 365.

**SECTION 96A. Transportation of Persons With Dangerous Disease. Consent of Board of Health Necessary.** No town shall transport or permit to be transported to another town any person infected with a disease dangerous to the public health, without first obtaining the assent of the board of health of the town to which the patient is to be transported; but this requirement shall not apply to transportation to a hospital except under section ninety-six.

1938, 265, § 9.

**SECTION 97. Limitation of Two Preceding Sections.** Sections ninety-five and ninety-six, so far as they confer authority for the removal of patients from their homes, shall apply only to persons residing in boarding houses or hotels, or to two or more families occupying the same dwelling, or in other cases where, in the opinion of the board, the patient cannot properly be isolated.

1838, 153.  
1840, 39.  
1848, 119.  
G. S. 26, § 51.

1872, 189.  
P. S. 80, § 82.  
R. L. 75, § 56.  
1906, 365, § 3.

G. L. 111, § 97.  
1938, 265, § 10.  
140 Mass. 314.

**SECTION 98. Removal of Infected Articles, Persons etc.** Boards of health may grant permits for the removal of any nuisance, infected articles or sick person within the limits of their towns.

1816, 44, § 12.  
R. S. 21, § 15.

G. S. 26, § 15.  
P. S. 80, § 39.

R. L. 75, § 86.  
G. L. 111, § 98.

**SECTION 99. Warrant to secure Infected Articles, etc.** If upon application of the board it appears to a magistrate authorized to issue warrants that there is just cause to suspect that baggage, clothing or goods found within the town are infected with any disease dangerous to the public health, he shall, by warrant directed to the sheriff or his deputy or to any constable, require him to impress as many men as said magistrate may judge necessary to secure such baggage, clothing or goods, and to post said men as a guard over the house or place containing such articles to prevent persons from removing or coming near the same until due inquiry is made into the circumstances.

1751-2, 12, § 1.  
1797, 16, § 5.  
R. S. 21, § 20.

G. S. 26, § 20.  
1877, 211, § 1.  
P. S. 80, § 44.

R. L. 75, § 87.  
G. L. 111, § 99.  
7 Op. A. G. 587.

**SECTION 100. Warrants to take Houses for Safe Keeping of Goods.** The magistrate may, by the same warrant, require the officers, under the direc-



tion of the board, to impress and take up convenient houses or stores for the safe keeping of such articles; and the board may remove them thereto or otherwise detain them until, in its opinion, they are freed from infection.

1761-2, 12, § 8.	G. S. 26, § 21.	R. L. 75, § 88.
1797, 16, § 5.	1877, 211, § 1.	G. L. 111, § 100.
R. S. 21, § 21.	P. S. 80, § 45.	7 Op. A. G. 411.

**SECTION 101. Officers may command Aid.** The officers, in executing the warrant, may command aid and may break open any house, shop or other place mentioned in the warrant. Whoever, being commanded by said officers to assist in the execution of the warrant, neglects or refuses so to do shall forfeit not more than ten dollars.

1751-2, 12, §§ 1, 2.	G. S. 26, § 22.	R. L. 75, § 89.
1797, 16, § 5.	P. S. 80, § 46.	G. L. 111, § 101.
R. S. 21, § 22.		

**SECTION 102. Payment of Expenses.** The expense of securing, transporting and purifying such articles as fixed by the board shall be paid by the owners or by the town, as the board may determine. For any article of furniture or wearing apparel ordered destroyed by the board the town may recompense the owner to an amount not exceeding fifty dollars.

1751-2, 12, § 2.	G. S. 26, § 23.	1903, 806.
1797, 16, § 5.	P. S. 80, § 47.	G. L. 111, § 102.
R. S. 21, § 23.	R. L. 75, § 90.	

**SECTION 103. Compensation for Houses, etc., impressed.** If a sheriff or other officer impresses or takes up any houses, stores, lodging or other necessities, or impresses men, the town where such persons or property are so impressed shall pay a just compensation to the persons entitled thereto. Compensation for taking or impressing property may be recovered under chapter seventy-nine.

R. S. 21, § 24.	P. S. 80, § 48.	G. L. 111, § 103.
G. S. 26, § 24.	R. L. 75, § 58.	

**SECTION 104. Notice of Infected Places.** If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection and may give public notice of infected places by such means as in their judgment may be most effectual for the common safety. Whoever obstructs the selectmen, board of health or its agent in using such means, or whoever willfully and without authority removes, obliterates, defaces or handles such public notices which have been posted, shall forfeit not less than ten nor more than one hundred dollars.

1792, 58, § 6.	G. S. 26, § 45.	R. L. 75, § 43.
R. S. 21, § 41.	1873, 2, § 2.	G. L. 111, § 104.
1888, 158.	P. S. 80, § 76.	1938 265, § 11.

This power "is to be exercised in the mode prescribed by law, and with that regard to the rights of others in their persons and property which is shown by other sections of the statute to be required. By the general authority to take such measures as are deemed necessary for the safety of the inhabitants, it is not intended to confer unlimited authority on the board to control persons and property at its discretion." *Brown v. Murdock*, 140 Mass. 323.

**SECTION 105. Penalty for Violation of Regulations.** If a physician or other person who is in any

of the hospitals or places of reception mentioned in section ninety-five, or who attends, approaches or is concerned with them, violates a regulation of the board of health relative thereto, he shall forfeit not less than ten nor more than one hundred dollars.

1792, 58, § 6.	G. S. 26, § 46.	R. L. 75, § 44.
R. S. 21, § 42.	P. S. 80, § 77.	G. L. 111, § 105.
1888, 158.		

**SECTION 106. Guard on State Border.** The board of health of a town near to or bordering upon an adjoining state may in writing appoint suitable persons, who shall attend at places by which travelers may pass from infected places without the commonwealth, and who may examine such travelers as the board suspects of bringing any infection dangerous to the public health, and, if necessary, restrain them from traveling until licensed thereto by the board of health of the town to which they may come. A traveler coming from an infected place who, without such license, travels within the commonwealth, unless to return by the most direct way to the state whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit not more than one hundred dollars.

1789-40, 1, § 8.	R. S. 21, § 18.	R. L. 75, § 45.
1742-3, 17, § 3.	G. S. 26, § 18.	G. L. 111, § 106.
1797, 16, § 3.	P. S. 80, § 42.	8 Op. A. G. 196.

**SECTION 107. Transportation of Infected Dead Bodies regulated.** No person shall convey or cause to be conveyed through or from any town in the commonwealth the body of any person who has died from any disease dangerous to the public health, except in accordance with such rules and regulations as may be made from time to time by the department. No town clerk, or clerk or agent of the board of health, shall give a permit for the removal of such a body until he has received from the board of health of the town where the death occurred a certificate stating the cause of death, and that said body has been prepared so as to preclude danger of contagion or infection by its transportation. The certificate shall be delivered to the agent or person receiving the body. The department shall formulate such rules and regulations pertaining to funerals of all persons dying from any disease dangerous to the public health as it deems necessary to prevent the spread of infection. Whoever violates any provision of this section or any rule or regulation made hereunder shall forfeit not more than twenty-five dollars.

1883, 124, § 2.	R. L. 75, § 43.	1938, 265, § 12.
1897, 437, § 6.	G. L. 111, § 107.	3 Op. A. G. 197.
1867, 335.		

**SECTION 108. Removal of Sick Prisoners.** If a prisoner in a jail or house of correction has a disease which, in the opinion of the physician of the board of health or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, in writing, direct his removal to a hospital or other place of safety, there to be provided for and securely kept until its further order. If he recovers from the disease, he shall be returned to his former place of confinement. If the person so removed has been committed by order of court or under judicial process, the order for his removal, or a copy thereof attested by the presiding member of the board, shall



be returned by him, with the doings thereon, into the office of the clerk of the court from which the process of commitment was issued. No prisoner so removed shall thereby commit an escape.

1816, 44, § 10.	P. S. 80, §§ 49, 50.	G. L. 111, § 108.
R. S. 21, §§ 25, 26.	R. L. 75, § 47.	1931, 426, § 15.
G. S. 26, §§ 25, 26.		

**SECTION 109. Householder to give Notice of Dangerous Diseases.** A householder who knows or has cause to believe that a person in his family or house is infected with a disease dangerous to the public health shall forthwith give notice thereof to the board of health of the town where such householder dwells, unless a physician is in attendance. Upon the death, recovery or removal of such person, the householder shall disinfect to the satisfaction of the board such rooms of his house and articles therein as, in the opinion of the board, have been exposed to infection or contagion, but the board may in its discretion, disinfect all such premises as, in its opinion, have been exposed to any disease dangerous to the public health, at the expense of the town, and may employ any proper and competent person to so disinfect. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars.

1742-3, 17, §§ 5, 6.	1884, 98, § 1.	1910, 269.
1792, 58, § 7.	1890, 102.	1914, 177.
R. S. 21, § 43.	R. L. 75, § 49.	1919, 350, § 96.
G. S. 26, § 47.	1905, 251, § 1.	G. L. 111, § 109.
P. S. 80, § 78.	1907, 480.	1938, 265, § 13.

**SECTION 109A. Eyes of Infants to be Treated.** The physician, or hospital medical officer registered under section nine of chapter one hundred and twelve, if any, personally attending the birth of a child shall treat his eyes within two hours after birth with a prophylactic remedy furnished or approved by the department, and he shall record on the birth certificate the use of such prophylactic. Whoever violates this section shall be punished by a fine of not more than one hundred dollars.

1936, 115.	1943, 46.	307 Mass. 9.
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**SECTION 110. Diseases of the Eyes of Infants to be reported.** If either eye of an infant becomes inflamed, swollen and red, or shows an unnatural discharge within two weeks after birth, the nurse, relative or other attendant having charge of such infant shall report in writing, within six hours thereafter, to the board of health of the town where the infant is, the fact that such inflammation, swelling and redness of the eyes or unnatural discharge exists. On receipt of such report, or of notice of the same symptoms given by a physician, or a hospital medical officer registered under section nine of chapter one hundred and twelve, as provided by the following section, the board of health shall take such immediate action as it may deem necessary, including, so far as may be possible, consultation with an oculist and the employment of a trained nurse, in order that blindness may be prevented.

1905, 251, § 1.	1914, 177.	1932, 180, § 17.
1907, 480.	G. L. 111, § 110.	230 Mass. 201.
1910, 269.		

**SECTION 111. Physicians to report Names of Persons infected with Certain Diseases.** If a physician knows or has cause to believe that a person whom

he visits is infected with a disease dangerous to the public health, or if either eye of an infant whom or whose mother a physician, or a hospital medical officer registered under section nine of chapter one hundred and twelve, visits, becomes inflamed, swollen and red, or shows an unnatural discharge within two weeks after birth, he shall immediately give written notice thereof, signed by him, to the board of health of the town where the patient is being attended by him. If the board of health which receives such written notice is the board of health of a town other than that wherein the patient dwells, it shall, immediately upon receipt of such notice, send a copy thereof to the board of health of the town wherein the patient dwells; and, in addition thereto, the board of health which receives such written notice, whether or not it is the board of health of the town wherein the patient dwells, shall send a copy thereof to the board of health of the town in which the patient is known to have contracted such disease and to the board of health of each town in which he is known to have exposed any person to such disease. If a physician or such a hospital medical officer refuses or neglects to give the notice required by this section he shall be punished by a fine of not less than fifty nor more than two hundred dollars. The foregoing provisions of this section and the provisions of section one hundred and nine shall not apply to venereal diseases as defined under section six, except in the case of eye infections in infants under two weeks of age. Any person having a venereal disease shall be reported to local boards of health either directly or through the department in accordance with such special rules and regulations as the department may make, having due regard for the best interests of the public.

1827, 129.	R. L. 75, § 50.	1938, 265, § 14.
R. S. 21, § 44.	1905, 251, § 2.	1948, 129, § 2.
G. S. 26, § 48.	1907, 480.	230 Mass. 201.
P. S. 80, § 79.	1919, 350, § 96.	307 Mass. 9.
1884, 98, § 2.	1920, 244, § 2.	5 Op. A. G. 626.
1891, 188.	G. L. 111, § 111.	

**SECTION 112. Local Board to notify Department.** If the board of health of a town has had notice of a case of any disease declared by the department dangerous to the public health therein, it shall within twenty-four hours thereafter give notice thereof to the department, stating the name and the location of the patient so afflicted, and upon request the department shall forthwith certify any such reports to the department of public welfare.

1888, 138, § 1.	1916, 55.	6 Op. A. G. 434.
1886, 101, § 4.	1919, 350, §§ 87, 96.	7 Op. A. G. 470.
1893, 302, § 1.	G. L. 111, § 112.	1938, 265, § 15.
R. L. 75, § 52.	1925, 215.	307 Mass. 9.
1907, 480.		

**SECTION 113. Records and Reporting of Dangerous Diseases.** Every board of health shall keep a record of all reports received pursuant to section one hundred and nine to one hundred and eleven, inclusive, containing the name and location of all persons who are infected, their disease, the name of the person reporting the case, the date of such report, and other information required by the department. Such records shall be kept in the manner or upon forms prescribed by the department. The board of health shall forthwith give information to the school committee of all



diseases dangerous to the public health so reported to it. Every board of health shall appoint some person, who may or may not be a member of the board, who shall give notice to the department, as provided in the preceding section, of any person infected with a disease dangerous to the public health; and in case of the absence or disability of such appointee, the board of health shall appoint another person to perform this duty during such absence or disability. Such appointments and the acceptance thereof by the persons so appointed shall be placed upon the records of the board. Any person, having accepted such appointment, who wilfully refuses or wilfully neglects or through gross negligence fails to give such notices shall be punished by a fine of not more than fifty dollars.

1884, 98, §§ 3, 4.	1919, 350, § 96.	202, Mass. 359.
R. L. 75, § 51.	G. L. 111, § 113.	225 Mass. 521.
1915, 52.	1938, 265, § 16.	5 Op. A. G. 299.
1918, 130, § 1.		

**SECTION 114. Forfeiture of Claim.** A claim of a town against the commonwealth for reasonable expenses incurred by the board of health in making the provision required by law for persons infected with a disease dangerous to the public health shall not be defeated by reason of the failure on the part of the board to give notice of such disease to the department under section one hundred and twelve, if such claim is otherwise a valid claim against the commonwealth.

1883, 138, § 2.	R. L. 75, § 53.	1919, 350, § 96.
1898, 302, § 2.	1918, 180, § 2.	G. L. 111, § 114.

**SECTION 115. Recovery of Expenses.** Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, for which any person is liable, may be recovered in contract.

1849, 211, § 6.	R. L. 75, § 54.	98 Mass. 481.
G. S. 26, § 49.	G. L. 111, § 115.	144 Mass. 523.
P. S. 80, § 80.		

**SECTION 116. Payment of Certain Expenses incurred by Cities and Towns.** Reasonable expenses incurred by boards of health or by the commonwealth in making the provision required by law for persons infected with smallpox or other disease dangerous to the public health shall be paid by such person or his parents, if he or they be able to pay, otherwise by the town where he has a legal settlement, upon the approval of the bill by the board of health of such town or by the department of public welfare; but such expenses shall not be recovered from a town liable therefor, unless proceedings to recover the same are commenced within two years after the cause of action arises. Such settlement shall be determined by the board of public welfare, and by the department of public welfare in cases cared for by the commonwealth. If the person has no settlement, such expenses shall be paid by the commonwealth, upon the approval of bills therefor by the department of public welfare. In all cases of persons having settlements, a written notice shall be sent by the board of health of the town where the person is sick to the board of health of the town where such person has a settlement, who shall forthwith transmit a copy thereof to the board of public welfare of the place of settlement; but nothing shall be recovered for relief furnished more than three

months prior to notice thereof given to the board of health of the place of settlement. If within one month after receiving such notice the board of health of the latter town does not submit a written statement denying the settlement and stating the reasons therefor, said town shall be barred from contesting the question of settlement. In any case liable to be maintained by the commonwealth when public aid has been rendered to such sick person, a written notice shall be sent to the department of public welfare, containing such information as will show that the person named therein is a proper charge to the commonwealth, and reimbursement shall be made for reasonable expenses incurred within ten days next before such notice is mailed, and thereafter until such sick person is removed under section twelve of chapter one hundred and twenty-one, or is able to be so removed without endangering his or the public health. Reimbursement by the commonwealth under the provisions hereof shall be subject to the provisions of section forty-two of chapter one hundred and twenty-one.

1701-2, 9, §§ 1, 2.	1902, 213, §§ 1, 3.	1943, 275, § 1.
1797, 16, § 1.	1907, 386, § 1.	187 Mass. 150.
R. S. 21, § 16.	1909, 380.	237 Mass. 360.
1837, 244, § 1.	1919, 350, §§ 87, 96.	261 Mass. 359.
1848, 119.	G. L. 111, § 116.	278 Mass. 219.
G. S. 26, § 16.	1926, 241, § 8.	285 Mass. 415.
1874, 121, § 2.	1927, 91.	4 Op. A. G. 474.
P. S. 80, §§ 40, 83.	1931, 384, § 117.	6 Op. A. G. 434.
R. L. 75, § 57.		

In an action by one city against another, under this section, for expenses incurred by the plaintiff's board of health for persons infected with smallpox having a legal settlement in the defendant city, if it appears that the persons in question were the only ones who fell ill in the house in which they were cared for, the plaintiff can recover the amount of a physician's reasonable bill, charging not only for his services required at the house, but also for two weeks' quarantine thereafter, for which the plaintiff in its contract with the physician had agreed to pay, but the plaintiff cannot recover expenses incurred for the services of policemen stationed to enforce the quarantine of the house in which the patients were isolated, or for supplies for other persons not ill who were quarantined in the same house, these expenses having been incurred not for the persons infected with smallpox but for the preservation of the public health.

Whether a city or town can maintain an action for such expense without first obtaining the approval of its own bill by the board of health of the defendant city or town, *quoere*. *Haverhill v. Marlborough*, 187 Mass. 150.

**SECTION 116A. Hospitalization of Patients with Chronic Rheumatism.** The department, subject to rules and regulations approved by the commission on administration and finance, may provide for the care and treatment of persons suffering from chronic rheumatism for a period not exceeding six months in case of any one such person, and said department may enter into contracts with one or more existing hospitals within any metropolitan district for the care and treatment of such patients; provided, that not more than twenty-five such patients may be cared for or treated under this section at any one time.

(To be inserted in place of section 117, on page 109.)

Section 117. Treatment of Venereal Diseases. For the purpose of providing treatment for persons suffering from venereal diseases, as defined under section six, and who are unable to pay for private medical care, the department shall, or with the co-operation of local boards of health, hospitals, dispensaries or other agencies may, establish and maintain clinics in such parts of the commonwealth as it may deem most advantageous to the public health, and may otherwise provide treatment for such diseases subject to such rules and regulations as the department may from time to time establish. Cities and towns, separately or jointly, through their boards of health or municipal hospitals, may establish and maintain such clinics. For the purposes of this section, providing treatment shall include pro-

viding transportation or the reasonable cost of such transportation to and from the place where treatment is given whenever the patient is not able to pay for such transportation.

For the purposes of this section, physical examination and treatment by a registered physician or surgeon acting under the authority of the department of public health upon the person of a minor who voluntarily appears therefor, shall not constitute an assault or an assault and battery upon said person.

1895, 400.

R/L, 75; s 39.

1906, 365, s 1.

1935, 155.

1937, 391.

1948, 129, s 3.

1954, 44.





### VENEREAL DISEASES.

**SECTION 117. Responsibility for Treatment of Venereal Diseases.** For the purpose of providing treatment for persons suffering from venereal diseases, and who are unable to pay for private medical care, the department shall, or with the co-operation of local boards of health, hospitals, dispensaries or other agencies may, establish and maintain clinics in such parts of the commonwealth as it may deem most advantageous to the public health, and may otherwise provide treatment for such diseases subject to such rules and regulations as the department may from time to time establish. Cities and towns, separately or jointly, through their boards of health or municipal hospitals, may establish and maintain such clinics. For the purposes of this section, providing treatment shall include providing transportation or the reasonable cost of such transportation to and from the place where treatment is given whenever the patient is not able to pay for such transportation.

1895, 400.	G. L. 111, § 117.	1948, 129, § 3.
R. L. 75, § 39.	1935, 155.	307 Mass. 9.
1906, 865, § 1.	1937, 391.	

The board of health is not authorized by this section to take possession of a vessel for use as a hospital. *Spring v. Hyde Park*, 137 Mass. 554.

**SECTION 118. Treatment of Venereal Diseases in Certain Hospitals.** No discrimination shall be made against the treatment of venereal diseases in any general hospital supported by taxation in any city or town where special hospitals, other than hospitals connected with penal institutions, are not provided for the treatment of such diseases at public expense; but any such hospital may establish a separate ward for their treatment.

1894, 511, § 8.	1906, 865, § 1.	1938, 44.
R. L. 75, § 41.	G. L. 111, § 118.	1948, 129, § 4.

**SECTION 119. Records, etc., of Venereal Diseases not to be Public.** Hospital, dispensary, laboratory and morbidity reports and records pertaining to venereal diseases shall not be public records, and the contents thereof shall not be divulged by any person having charge of or access to the same, except upon proper judicial order or to a person whose official duties, in the opinion of the commissioner, entitle him to receive information contained therein. Violations of this section shall for the first offence be punished by a fine of not more than fifty dollars, and for a subsequent offence by a fine of not more than one hundred dollars.

1905, 330, § 3.	1919, 850, § 97.	1948, 129, § 5.
1918, 96, §§ 1, 3.	G. L. 111, § 119.	8 Op. A. G. 601.

**SECTION 121. Treatment of Venereal Diseases and Tuberculosis in Certain Institutions.** An inmate of a public charitable institution or a prisoner in a penal institution who is afflicted with venereal disease as defined under sec. 6 or pulmonary tuberculosis shall be forthwith placed under medical treatment, and if, in the opinion of the attending physician, it is necessary, he shall be isolated until danger of contagion is passed or the physician determines his isolation unnecessary. If at the expiration of a prisoner's sentence he is afflicted with a venereal dis-

ease as defined under section 6, or pulmonary tuberculosis in its contagious or infectious stages, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his release would be dangerous to public health, he shall be placed under medical treatment in the institution where he has been confined. Thereupon the authorities of such institution shall notify the department of public welfare of his condition and said department shall provide for his hospitalization and medical care at an institution until, in the opinion of the attending physician of the institution wherein he was being treated, the symptoms have disappeared and his release will not endanger the public health. Notice of a prisoner's release hereunder to the department of public welfare shall be made to the department of public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the town where he has a settlement, after notice of the expiration of his sentence and of his condition to the board of public welfare thereof, or, if he is a state charge, by the commonwealth after like notice to the department of public welfare.

1891, 420.	1928, 155, § 3.	1948, 129, § 5.
R. L. 75, § 48.	G. L. 111, § 121.	6 Op. A. G. 99.
1919, 350, §§ 87, 96.	1945, 555.	Op. A. G. (1928) 77.
1920, 306.		

**SECTION 121A. Tests for Syphilis of Pregnant Women.** A physician attending a pregnant woman in this commonwealth during gestation shall take or cause to be taken a sample of blood of such woman at the time of first examination, and shall submit such sample for a standard serological test for syphilis to a laboratory of the department or to a laboratory approved for such test by the department; provided, that not more than one physician attending a pregnant woman during gestation shall be required to comply with the provisions of this section.

1939, 407.	307 Mass. 9.
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### NUISANCES.

**SECTION 122. Regulations relative to Nuisances, etc.** The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the public health and safety relative thereto and to articles capable of containing or conveying infection or contagion or of creating sickness brought into or conveyed from the town or into or from any vessel. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

1797, 16, §§ 3, 5, 11.	163 Mass. 240.	241 Mass. 406.
R. S. 21, §§ 5, 6, 9.	179 Mass. 385.	257 Mass. 580.
G. S. 26, §§ 5, 7.	182 Mass. 39.	260 Mass. 544.
P. S. 80, §§ 18, 20.	186 Mass. 380.	318 Mass. 276, 684.
R. L. 75, § 65.	190 Mass. 442.	319 Mass. 170.
G. L. 111, § 122.	203 Mass. 26.	1 Op. A. G. 290.
97 Mass. 221.	208 Mass. 493.	Op. A. G. (1927) 58.
125 Mass. 182.	214 Mass. 587.	Op. A. G. (1930) 106.
135 Mass. 526.	233 Mass. 275.	

The section is constitutional. *Brodline v. Revere*, 182 Mass. 601. Under this section boards of health may examine the scholars in a school if they have



reasonable ground for believing that cases of sickness, which are in effect causes of sickness, exist in such school. 3. Op. Atty-Gen. 196.

A regulation prohibiting any person not duly licensed from carting or carrying house-dirt, offal, etc., through the streets is valid. *Vandine*, petitioner, 6 Pick. 187; see also *Wheeler v. Boston*, 233 Mass. 275. Also a regulation prohibiting the keeping of swine in particular districts of a city. *Commonwealth v. Patch*, 97 Mass. 221. Also a regulation forbidding an abutter to allow filth to remain on a private passageway adjoining his land. *Commonwealth v. Cutter*, 156 Mass. 52. Also a regulation as to the time and place within which manure arriving by rail must be unloaded. *Kineen v. Lexington Board of Health*, 214 Mass. 587. But this section does not authorize a board of health to make a contract for the removal of ashes and garbage. *Oliver et al. v. Gale et al.*, 182 Mass. 39. Nor a regulation that milk shall be sold only in closed receptacles. *Commonwealth v. Drew*, 208 Mass. 493.

A piggery in which swine are kept in such numbers that their odors make the occupation of the neighboring houses and passage over the adjacent highways disagreeable is a nuisance. *Commonwealth v. Perry*, 139 Mass. 198; cf. *Commonwealth v. Young*, 135 Mass. 526; see also *Fay v. Whitman*, 100 Mass. 76; *Commonwealth v. Sweeney*, 131 Mass. 579.

The decision by a local board that a nuisance exists will not be examined and revised by the court before the orders of the Board are carried out; after they are carried out the question may be litigated. *Stone v. Heath*, 179 Mass. 385.

In order to amount to a nuisance, it is not necessary that the corruption of the atmosphere should be such as to be dangerous to health; it is sufficient that the effluvia are offensive to the senses, and render habitations uncomfortable. *Eames v. Worsted Co.*, 11 Met. 570.

NOTE.—A public hospital for the treatment of tuberculosis is not as a matter of law a nuisance. *Cook v. City of Fall River*, 239 Mass. 90.

**SECTION 122A. Boards of Health May Regulate Water Supplies.** Upon determination by the board of health that the available supply of water for drinking, culinary and other domestic purposes in any place of habitation, or in any place where food or drink is prepared, handled or served to the public, is so unsafe or inadequate as to constitute a nuisance within the meaning of this chapter, said board may issue a written order to the owner of such place, as appearing in the current records of the assessors, requiring him to discontinue the use of the water supply, or, at his option, to provide such place with a water supply safe and adequate for such purposes. Any person who wilfully fails or refuses to comply with such an order shall be punished by a fine of not less than fifty dollars, and the board may thereupon cause the removal of the occupants of the place to which the order relates, which shall not again be occupied as a place of habitation or place in which food or drink is prepared, handled or served to the public, without its written permission. The superior

court, on a petition in equity brought by said board, shall have jurisdiction by injunction or otherwise to enforce any order issued under this section.

1947, 148.

**SECTION 123. Nuisances to be abated by Owner.** Said board shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, source of filth or cause of sickness found thereon within twenty-four hours, or within such other time as it considers reasonable, after notice; and an owner or occupant shall forfeit not more than twenty dollars for every day during which he knowingly violates such order.

1797, 16, § 11.  
R. S. 21, § 10.  
1849, 211, § 3.  
1855, 369.  
G. S. 26, § 8.  
P. S. 80, § 21.

R. L. 75, § 67.  
G. L. 111, § 123.  
98 Mass. 481.  
132 Mass. 71.  
186 Mass. 380.  
190 Mass. 442.

203 Mass. 26.  
237 Mass. 56.  
257 Mass. 580.  
313 Mass. 684.  
Op. A. G. (1938) 125.

The order to abate the nuisance cannot direct that it shall be abated in a specific way, and the owner may abate the nuisance in any proper manner. *Belmont v. N. E. Brick Company*, 190 Mass. 442; *Watuppa Reservoir v. Mackenzie*, 132 Mass. 71.

An order directing the abatement of a nuisance is not rendered void by the fact that it also purports to direct the manner in which the nuisance shall be abated. *Commonwealth v. Alden*, 143 Mass. 113.

There is no authority under this section to erect a dam upon a person's land, without his consent, for the purpose of abating a nuisance existing on adjacent land. *Cavanagh v. Boston*, 139 Mass. 426; cf. *Huse v. Amesbury*, 163 Mass. 240.

A town cannot maintain a suit in equity under R. L., c. 75, § 141, to enforce against a corporation an order of the board of health of the town, issued under R. L., c. 75, § 67, for the abatement of what the board has found to be a "nuisance" existing on premises occupied and run by the corporation and "caused by the discharge of waste material into" a swamp adjacent to its "factory building, resulting in the excessive pollution of the water and causing foul and offensive odors to arise therefrom", where it does not appear that a "source of filth" existed on the premises at any time or that any "cause of sickness" even had been traced to any gas or odor arising from the swamp. *Inhabitants of Mansfield v. Atlantic Chemical Company*, 237 Mass. 56.

See page 121A

**SECTION 124. Service of Order for Abatement.** Such order shall be in writing, and may be served personally on the owner, occupant or his authorized agent by any person authorized to serve civil process; or a copy of the order may be left at the last and usual place of abode of the owner, occupant or agent, if he is known and within the commonwealth. If the premises are unoccupied and the residence of the owner or agent is unknown or is without the commonwealth, the board may order the notice to be served by posting in on the premises and by advertising it in one or more newspapers.

1849, 211, § 4.  
G. S. 26, § 9.  
P. S. 80, § 22.

R. L. 75, § 68.  
G. L. 111, § 124.  
143 Mass. 118.

257 Mass. 580.  
Op. A. G. (1938) 126.

The notice may be served by a constable, although he is a member of the board of health and signs the notice. *Commonwealth v. Alden*, 143 Mass. 113.



## CHAP. 111

(To be inserted after section 128, on page 111.)

Section 128B. A building structure, mobile dwelling place, tenement, room or cellar occupied as a dwelling place must be so used and maintained that it shall be fit for such purpose. The board of health may examine such buildings, structures, mobile dwelling places, tenements, rooms or cellars in its city or town to determine if any such dwelling place has become, by reason of the number of occupants, uncleanness or other cause unfit for such purpose, or may become a nuisance or cause of sickness or a cause of home accident to the occupants or to the public. In the absence of regulations adopted under section one-hundred and twenty-eight C any building or portion thereof which is leased, rented or occupied as a dwelling place shall comply with the following housing standards:- (1) The building and premises appurtenant thereto shall be kept reasonably clean and free from rubbish. (2) Floors, ceilings, walls, stairs and windows shall be kept in good repair and serviceable. (3) Cellar, basement, floors, walls and ceilings shall be reasonably free from dampness. (4) Water closets and drains therefrom shall be in repair and working order. (5) Heat-generating equipment shall be reasonably adequate and in a safe and serviceable condition. If an examination under this section discloses that a building or portion thereof does not so comply, the board of health may determine that the building or portion thereof is unfit for human habitation.

Section 128C. The department of public health shall, or a local board of health may, after notice to all persons deemed interested and a public hearing, make, and from time to time amend, alter or repeal, such regulations as are deemed reasonable and necessary to establish the minimum standards of fitness for human habitation. Such regulations shall be in accordance with accepted standards of public health, sanitation, housing and home safety practice, and may define the responsibilities of owners and tenants. A certified copy of such regulations adopted by the department of public health or local board of health shall be deposited with the state secretary. Regulations made by the department of public health shall be effective in any city or town upon acceptance in a city by vote of the city council, or in a town by vote of the town. A cer-

tified copy of acceptance shall be deposited with the state secretary and the commissioner of public health. Regulations made by a local board of health shall become effective upon passage by the board, and publication once in a newspaper of local distribution. A copy of said regulations shall be available to the public at all reasonable hours in the office of the clerk in such city or town, or in the office of the board of health. Such regulations shall be enforced by such board of health, or health officer, as the case may be.

Section 128D. Upon a determination by the board of health, after examination as provided in section one hundred and twenty-eight B that a building, tenement, room, cellar, mobile dwelling place or any other structure (a) is unfit for human habitation, (b) is or may become a nuisance, or (c) is or may be a cause of sickness or home accident to the occupants or to the public, it may issue a written order to the owner or occupant or any of them thereof, requiring the owner or occupant to vacate, to put the premises in a cleanly condition, or to comply with the housing standards set forth in section one hundred and twenty-eight B which are not complied with. The order shall be served in the same manner as is provided for the service of an order by section one hundred and twenty-four of chapter one hundred and eleven. If the owner or occupant refuses to comply with such order, the board of health may cause the premises to be properly cleaned at the expense of the owner or occupant, remove the occupant forcibly and close up the premises, or proceed under section one hundred and twenty-eight E. Premises closed up under the provisions of this section shall not be occupied as a human habitation without written permission of the board of health. An owner who knowingly occupies or permits the premises to be occupied without such permission, or who knowingly violates any regulation adopted under the provisions of section one hundred and twenty-eight C, shall be punished by a fine of not less than ten nor more than fifty dollars for each day of violation.

Section 128E. Instead of proceeding under section one hundred and twenty-eight D, the board of health, if satisfied that such a building or portion thereof in its town is



unfit for human habitation, may issue a written notice to the owner of such building, as appearing in the current records of the assessors of such town, setting forth the particulars of such unfitness and requiring that the conditions be remedied. If the person so notified fails within a reasonable time to remedy the conditions thus set forth, the superior court, on a petition in equity brought by the board of health, shall have jurisdiction, by injunction or otherwise, to enforce the requirements of the board of health.

Section 128 has been repealed

1954, 209

(To be inserted after section 128, on Page  
III.)

Section 128D. Upon a determination by the board of health, after examination as provided in section one hundred and twenty-eight B that a building, tenement, room, cellar, mobile dwelling place or any other structure (a) is unfit for human habitation, (b) is or may become a nuisance, or (c) is or may be a cause of sickness or home accident to the occupants or to the public, it may issue a written order to the owner or occupant or any of them thereof, requiring the owner or occupant to vacate, to put the premises in a cleanly condition, or to comply with the housing standards set forth in section one hundred and twenty-eight B which are not complied with. The order shall be served in the same manner as is provided for the service of an order by section one hundred and twenty-four of chapter one hundred and eleven. If the owner or occupant refuses to comply with such order, the board of health may cause the premises to be properly cleaned at the expense of the owner or occupant, remove the occupant forcibly and close up the premises, or proceed under section one hundred and twenty-eight E. Premises closed up under the provisions of this section shall not be occupied as a human habitation without written permission of the board of health.

1954, 447, s 1.

Section 128F. Any person who wilfully impedes or obstructs the examination by a board of health under section one hundred and twenty-eight B or who knowingly violates any regulation adopted under the provisions of section one hundred and twenty-eight C or who knowingly violates any provision of section one hundred and twenty-eight D shall be punished by a fine of not less than ten nor more than fifty dollars for each day of violation.

1954, 447, s 2.





**SECTION 125. Removal of Nuisance by Board.** If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof.

1797, 16, § 11.  
R. S. 21, § 11.  
1849, 211, § 5.  
G. S. 26, § 10.  
P. S. 80, § 23.

R. L. 75, § 69.  
G. L. 111, § 125.  
98 Mass. 431.  
126 Mass. 496.

257 Mass. 580.  
318 Mass. 684.  
319 Mass. 126.  
Op. A. G. (1938) 136.

By the provisions of G. L., c. 139, § 3, the aldermen or selectmen have the same power to abate and remove a nuisance caused by burnt or dangerous buildings as is given to the board of health of a town under sections 123 to 125 of chapter 111.

**SECTION 126. Location of Privy Vaults regulated.** If the city council of a city, or a town having a population of more than one thousand, accepts this section, or has accepted corresponding provisions of earlier laws, no privy vault shall be constructed upon premises connected with a common or private sewer or abutting on a public or private street, court or passageway in which there is a common sewer opposite thereto, without permission in writing having first been obtained from the board of health. And if, in the opinion of said board, a privy vault so situated is injurious to the public health, it shall declare the same a nuisance and forbid its continuance, and the three preceding sections shall apply thereto.

1890, 74.  
1899, 184.

R. L. 75, § 70.  
1910, 313.

G. L. 111, § 126.

**SECTION 127. Regulations relative to House Drainage.** The board of health of a city or town may make and enforce regulations for the public health and safety relative to house drainage and connection with common sewers, if such a sewer abuts the estate to be drained. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

1877, 133, § 5.  
1881, 185.  
P. S. 80, § 12.

1839, 108.  
R. L. 75, § 66.

G. L. 111, § 127.  
1937, 339.

**SECTION 128. Eviction from Unfit Dwelling.** The board of health, if satisfied upon examination that a building, tenement, room or cellar in its town occupied as a dwelling place has become, by reason of the number of occupants, uncleanness or other cause, unfit for such purpose, and may become a nuisance or be a cause of sickness to the occupants or to the public, may issue a written notice to such occupants or any of them, requiring the premises to be put into a cleanly condition, or vacated within such time as the board may deem reasonable. If the persons so notified neglect or refuse to comply with the notice, the board may cause the premises to be properly cleansed at the expense of the owner, or may remove the occupants forcibly and close up the premises, which shall not be again occupied as a dwelling place without its written permission. If the owner thereafter occupies or knowingly permits the same to be occupied without such permission he shall forfeit not less than ten nor more than fifty dollars.

Without limiting the foregoing, failure to conform with two or more of the following housing standards shall, in the case of a building or portion thereof which is leased or rented and occupied as a dwelling place, be a sufficient reason for a finding of unfitness for human habitation and for proceedings in accordance with the preceding paragraph:—(1) that the building and premises appurtenant thereto shall be kept reasonably clean and free from rubbish; (2) that the floors, ceilings, walls, stairs and windows shall be kept in reasonably good repair and serviceable; (3) that the cellar, basement, floors, walls and ceilings shall be reasonably free from dampness; (4) that the water closets and drains for waste therefrom shall be maintained in good repair; (5) that the heat generating equipment shall be reasonably adequate and be maintained in a reasonably safe and serviceable condition.

Instead of proceeding under the first paragraph of this section, the board of health, if satisfied that such a building or portion thereof in its town is unfit for human habitation, as defined in this section, may issue a written notice to the owner of such building, as appearing in the current records of the assessors of such town setting forth the particulars of such unfitness and requiring that the conditions be remedied. If the person so notified fails within a reasonable time to remedy the conditions thus set forth, the superior court, on a petition in equity brought by the board of health, shall have jurisdiction, by injunction or otherwise, to enforce the standards of this section and said requirements of the board of health. For the purposes of this section the department of public health, after notice to all persons it deems interested and a public hearing, shall make, and from time to time may amend, alter or repeal, such regulations as it deems reasonable and necessary to establish the minimum standards of fitness for human habitation failure to comply with which, with relation to a dwelling place and its premises, the use or occupancy thereof, the equipment thereof, or a condition thereon, shall constitute a nuisance or shall render such dwelling place unfit for human habitation under this section. Such regulations shall be in accordance with accepted standards of public health and sanitation practice. The department shall deposit a certified copy of such regulations with the state secretary. The commissioner shall forthwith cause one copy of said regulations to be forwarded by registered mail to the mayor or other governing body or officer of each city and to the board of selectmen of each town. Said regulations shall become effective in any city or town upon acceptance, in a city by vote of the city council and in a town by vote of the town. The commissioner shall forthwith upon acceptance thereof by any city or town cause three copies of said regulations to be forwarded by registered mail to the district health officer within whose district such a city or town lies, and to the board of health or health officer, as the case may be, of such city or town. One copy of said regulations shall be made available to the public at all reasonable hours in the office of the clerk of such city or town. Such regulations shall be enforced by such



board of health or health officer or district health officer as the case may be.

1850, 108.	R. L. 75, § 71.	1943, 468.
G. S. 26, § 11.	G. L. 111, § 128.	1947, 681, § 2.
P. S. 80, § 24.		

*SECTION 128A (See page 1210)*

**SECTION 129. Removal of Nuisance on Conviction of Owner or Occupant.** If a person is convicted on an indictment for a common nuisance injurious to the public health, the court may order the nuisance to be removed or destroyed at the expense of the defendant, under the direction of the board of health.

1801, 16, § 3.	G. S. 26, § 12.	R. L. 75, § 72.
R. S. 21, § 12.	P. S. 80, § 25.	G. L. 111, § 129.

**SECTION 130. Enjoining Nuisance.** The superior court, either before or pending a prosecution for a common nuisance affecting the public health, may enjoin the maintenance of such nuisance until the matter is decided or the injunction dissolved.

1827, 88.	G. S. 26, § 13.	R. L. 75, § 73.
G. L. 111, § 180.	P. S. 80, § 26.	179 Mass. 385.
R. S. 21, § 13.		

Suits to enforce the orders of a board of health for the removal, suppression, and abatement of a nuisance, or for its prevention, should be brought in the name of the city or town. *Worcester Board of Health v. Tupper*, 210 Mass. 378.

**SECTION 131. Compulsory Examination of Premises.** If the board considers it necessary for preservation of life or health to enter any land, building or premises, or go on board a vessel within its town, to examine into and destroy, remove or prevent a nuisance, source of filth or cause of sickness, and the board, or any agent thereof sent for that purpose, is refused such entry, any member of the board or such agent may make complaint to a justice of any court of record or to a magistrate authorized to issue warrants, who may thereupon issue a warrant, directed to the sheriff or any of his deputies, to such member or agent of the board, or to any constable of such town, commanding him to take sufficient aid and at any reasonable time repair to the place where such nuisance, source of filth or cause of sickness complained or may be, and to destroy, remove or prevent the same, under the direction of the board.

1816, 44, § 2.	1873, 2, § 1.	R. L. 75, § 74.
R. S. 21, § 14.	1877, 211, § 1.	G. L. 111, § 131.
G. S. 26, § 14.	P. S. 80, § 27.	7 Op. A. G. 587.

**SECTION 132. Land which is deemed a Nuisance.** Land which is wet, rotten or spongy, or covered with stagnant water, so as to be offensive to residents in its vicinity or injurious to health, shall be deemed a nuisance, which the board of health of the town where it lies, upon petition and hearing, may abate in the manner provided in the seven following sections; but if the expense of abatement will exceed two thousand dollars, such abatement shall not be made without a previous appropriation therefor.

1868, 160, § 1.	G. L. 111, § 132.	163 Mass. 240.
P. S. 80, § 28.	132 Mass. 71.	166 Mass. 399.
1887, 338, § 1.	135 Mass. 490.	225 Mass. 467.
R. L. 75, § 75.	160 Mass. 486.	287 Mass. 59.

Where a nuisance is artificially created by emptying the sewage of dwelling houses through a private drain in a private way upon the surface of such

way and of abutting private land, the board of health has no authority, when acting under this section, to abate such a nuisance by extending such private drain through such abutting private land to a brook thereon, and by cleaning out the brook so that it would carry off the sewage. It may be dealt with under section 122. *Huse v. Amesbury*, 163 Mass. 240.

**SECTION 133. Application for Abatement.** Whoever is injured by such nuisance may, by petition describing the premises upon which it is alleged to exist and stating the nature of the nuisance complained of, apply to the board for its abatement; whereupon such board shall view the premises and examine into the nature and cause of such nuisance.

1868, 160, § 2.	R. L. 75, § 76.	G. L. 111, § 133.
P. S. 80, § 29.		

**SECTION 134. Proceeding on Application for Abatement.** Upon such examination, if the board is of opinion that the petition should be granted, it shall appoint a time and place for a hearing, first giving reasonable notice thereof to the petitioners, to the persons whose lands it may be necessary to enter upon to abate the nuisance, and to any other persons who may be damaged or benefited by the proceedings, and to the mayor or the chairman of the selectmen, unless the selectmen constitute the board of health, that they may be heard upon the necessity and mode of abating such nuisance, the question of damages, and of the assessment and apportionment of the expenses of the abatement.

1868, 160, § 3.	R. L. 75, § 77.	G. L. 111, § 134.
P. S. 80, § 30.		

An assessment cannot be levied upon a person to whom notice of the hearing is not given, although he has actual knowledge that the work is being done. *Grace v. Newton Board of Health*, 135 Mass. 490; *Hall v. Staples*, 166 Mass. 399.

**SECTION 135. Form of Notice and Service thereof.** Such notice shall be in writing, and may be served, by any person authorized to serve civil process, by personal service upon the mayor or chairman of the selectmen, the petitioners, the owner or occupant of any land upon which it may be necessary to enter or which may be benefited by the abatement, or the authorized agent of such owner or occupant, or by leaving an attested copy of such notice at the last and usual place of abode of such persons; but if the land is unoccupied and the owner or agent is unknown or out of the commonwealth, the notice to such owner may be served by posting an attested copy thereof upon the premises, or by advertising in one or more newspapers in such manner and for such length of time as the board may order.

1868, 160, § 4.	R. L. 75, § 78.	166 Mass. 399.
P. S. 80, § 31.	G. L. 111, § 135.	

**SECTION 136. Abatement of Nuisance. Damages.** At the time and place appointed therefor, the board shall hear the parties, and thereafter may cause such nuisance to be abated by entering upon any land and by making such excavations, embankments and drains therein and under and across any ways as may be necessary; and shall also de-

(To be inserted after Section 142 on Page 113)

Section 142A. The department may from time to time, after notice to all persons interested and a public hearing, and subject to the approval of the governor and council, prescribe and establish minimum rules and regulations to prevent pollution or contamination of the atmosphere within the commonwealth. Said rules and regulations, after being so prescribed and established, shall have the force of law. The publication of any such rule or regulation made by the department under this section in a newspaper of the town where such rule or regulation is to take effect, or, if no newspaper is published in such town, the posting of a copy of such rule or regulation in a public place therein shall be legal notice to all persons; and an affidavit of such publication or posting by the person causing such notice to be published or posted, filed and recorded, with a copy of the notice, in the office of the town clerk of such town, shall be admitted as evidence of the time when, the place where and the manner in which the notice was given. Any municipality, corporation or person, which, after due notice, con-

tinues to violate any such rule or regulation shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than fifty dollars for the first offence, and not less than twenty nor more than one hundred dollars for every succeeding offence. The supreme judicial or superior court, upon the application of the department, or upon the application of any person interested, with the approval of the department, may enforce such rules and regulations, and restrain the use or occupation of the premises or such portion thereof as the department may specify until such rules and regulations have been complied with.

1954, 672, s.3

Note - Section 2. The division of smoke inspection in the department of public utilities, established by section twelve C of chapter twenty-five of the General Laws, is hereby transferred from the department of public utilities to the department of public health

1954, 672, s.2





termine in what manner and at whose expense the improvements shall be kept in repair, shall estimate and award the damage sustained by and the benefit accruing to any person by reason of such improvements, and what proportion of the expense of making and keeping the same in repair shall be borne by the town and by the persons benefited thereby. The board shall forthwith give notice of its decision, in the manner required in the preceding section, to the parties to whom notice is required to be given by section one hundred and thirty-four and to the assessors of said town. The expense of making and keeping such improvements in repair shall be assessed by the assessors upon the persons benefited thereby, as ascertained by said decision, shall be included in their taxes, shall be a lien upon the land benefited thereby, and shall be collected in the same manner as other taxes upon land. Apportionment of assessments under this section may be made and the parts thereof be collected as provided in chapter eighty.

1868, 160, § 5. R. L. 75, § 79. G. L. 111, § 186.  
P. S. 80, § 82. 1915, 46. 135 Mass. 490.

Damage to the petitioner's lands, in order to be chargeable to the board of health, must be the result of the act of the board of health. The measure of damages is the difference between the fair market value of the land before the act of the board of health and such value afterward. *Driscoll v. Taunton*, 160 Mass. 486, 493.

**SECTION 137. Appeal from Adjudication of Nuisance.** A person entitled to notice under section one hundred and thirty-four, who is aggrieved by the decision of said board or of the commissioners appointed under section one hundred and forty that the land described in the petition is a nuisance, may appeal therefrom to the superior court, if, within twenty-four hours after notice of such decision, he gives written notice to said board of his intention so to do, and within seven days thereafter files a petition in the superior court stating his grievance and the action of said board thereon, and enters into such recognizance as said court shall order. Said court may hear and determine such appeal, pending which all proceedings by the board of health relative to such nuisance shall be stayed.

1887, 338, § 2. R. L. 75, § 80. G. L. 111, § 187.

**SECTION 138. Appeal from Assessment.** Whoever is aggrieved by such decision in the award of damages or in the determination of benefits accrued or in the apportionment of the expense may, within three months after notice thereof, petition the superior court under chapter seventy-nine or chapter eighty, first giving one month's notice in writing to the mayor and aldermen or selectmen of his intention so to do, and particularly specifying therein his objections to said decision. Such petition shall otherwise be made in like manner and the proceedings thereon shall be the same as in case of land taken or betterments assessed under said chapters, respectively.

1887, 338, § 3. 1918, 257, § 192; 285. 1920, 2.  
R. L. 75, § 81. 1919, 5. G. L. 111, § 188.

**SECTION 139. Board to make Return.** The board shall, within thirty days after the abatement of such

nuisance, make return of its doings to the town clerk, who shall record them in the town records.

1868, 160, § 6. R. L. 75, § 82. 318 Mass. 681.  
P. S. 80, § 88. G. L. 111, § 189.

**SECTION 140. Appointment of Commissioners.** If the board unreasonably refuses or neglects to proceed in the matter of said petition, the petitioner may apply to the superior court, which, upon a hearing and for good cause shown, may appoint three commissioners, who shall proceed in the manner provided in sections one hundred and thirty-three to one hundred and thirty-nine, inclusive.

1868, 160, § 7. R. L. 75, § 88. G. L. 111, § 140.  
P. S. 80, § 34.

**SECTION 141. Application to County Commissioners.** Whoever is aggrieved by the neglect or refusal of the board of health to pass all proper orders abating a nuisance, in accordance with any provision of sections one hundred and twenty-two to one hundred and thirty-nine, inclusive, may apply to the county commissioners, who may hear and determine such application and exercise in such case all of the powers of said board. The applicant shall, within twenty-four hours after such neglect or refusal, file with said board a written notice to the adverse party of his intention so to apply to the county commissioners, and within seven days after the filing of said written notice shall present a petition to one of the county commissioners, stating the grievance complained of and the action of the board of health thereon or the neglect or refusal of said board to act thereon, as the case may be.

1868, 211, § 3. R. L. 75, § 85. 1937, 278.  
P. S. 80, § 88. G. L. 111, § 141. 318 Mass. 681.

**SECTION 142. Payment of Costs and Expenses.** Each county commissioner, when acting under the preceding section, shall tax three dollars a day for time and five cents a mile for travel to and from the place of meeting, which shall be paid into the county treasury; and such costs shall in the first instance be paid by the applicant, and the commissioners may award that costs of the proceeding shall be paid by any party thereto.

1868, 211, § 3. R. L. 75, § 85. G. L. 111, § 142.  
P. S. 80, § 88.

## NOISOME TRADES.

**SECTION 143. Assignment of Places for Offensive Trades.** No trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors shall be established in a city or town except in such a location as may be assigned by the board of health thereof, subject, however, to the provisions of any ordinance or by-law adopted therein under sections twenty-five to thirty A, inclusive, of chapter forty, or corresponding provisions of earlier laws, and such board of health may prohibit the exercise thereof within the limits of the city or town or in places not so assigned, in any event. Such assignment shall be entered in the records of the city or town, and may be revoked when the board shall think proper.



The department shall advise, upon request, the board or health of a city or town previous to the assignment of places for the exercise of any trade or employment referred to in this section, and any person, including persons in control of any public land, aggrieved by the action of the board of health in assigning certain places for the exercise of any trade or employment referred to in this section may, with sixty days, appeal from the assignment of the board of health to the department and the department may, after a hearing, rescind, modify or amend such assignment.

1692-3, 23, § 1.  
1696, 13.  
1710-11, 8, § 1.  
1785, 1, § 1.  
R. S. 21, § 47.  
1855, 391, § 1.  
G. S. 26, § 52.  
P. S. 80, § 84.  
R. L. 75, § 91.  
G. L. 111, § 143.  
1933, 269, § 2.

1948, 480, § 1.  
16 Gray, 231.  
8 Allen, 825.  
11 Allen, 595.  
97 Mass. 221.  
116 Mass. 254.  
135 Mass. 526.  
151 Mass. 563.  
181 Mass. 565.  
183 Mass. 491.  
190 Mass. 442.

214 Mass. 587.  
237 Mass. 59.  
242 Mass. 196.  
240 Mass. 544.  
280 Mass. 76.  
308 Mass. 150.  
314 Mass. 20.  
315 Mass. 93.  
318 Mass. 685.  
319 Mass. 286.  
320 Mass. 81.

The statutes have not superseded the remedy by indictment at common law for a nuisance in carrying on an unlawful and offensive trade. *Commonwealth v. Rumford Chemical Works*, 16 Gray, 233.

Previous notice to parties interested is not required. *Belcher et al. v. Farrar*, 8 Allen, 325.

The keeping of swine is an "employment" within the meaning of this section, and a board of health has authority to prohibit it. *Commonwealth v. Young* 135 Mass. 526; see also *Commonwealth v. Patch*, 97 Mass. 223, and *Commonwealth v. Rawson*, 183 Mass. 491.

The order of the board of health need not state in direct terms that the trade which it prohibits is a nuisance. It is sufficient if the order clearly shows that, in the opinion of the board, the exercise of such trade will be hurtful to the inhabitants, or injurious to the public health, or be attended by noisome or injurious odors. *Taunton v. Taylor*, 116 Mass. 261.

The power to "prohibit" includes the power to prohibit without a permit. *Quincy v. Kennard*, 151 Mass. 563.

A license to slaughter granted by the mayor and aldermen under this section is not good against a prohibition by the board of health under section 143. *Cambridge v. Trelegan*, 181 Mass. 565.

The occupation of digging clay and manufacturing bricks was held not within the meaning of this section in *Belmont v. N. E. Brick Company*, 190 Mass. 442.

**SECTION 144. Revocation by Court.** If a place or building so assigned becomes a nuisance by reason of offensive odors or exhalations therefrom, or is otherwise hurtful or dangerous to the neighborhood or to travelers, the superior court may, on complaint of any person, revoke such assignment, prohibit such further use of such place or building, and cause the nuisance to be removed or prevented.

1710-11, 8, § 2.  
1785, 1, § 2.  
R. S. 21, § 48.

G. S. 26, § 53.  
P. S. 80, § 85.  
R. L. 75, § 92.

G. L. 111, § 144.  
318 Mass. 684.

**SECTION 145. Damages.** Whoever is injured in the comfort or enjoyment of his estate by such nuisance may recover in tort the damages sustained thereby.

1799, 75, § 2.  
R. S. 21, § 49.  
G. S. 26, § 54.

P. S. 80, § 86.  
R. L. 75, § 93.

G. L. 111, § 145.  
318 Mass. 684.

**SECTION 146. Orders of Prohibition.** Orders of prohibition issued under section one hundred and forty-three shall be served by an officer qualified to serve civil process upon the occupant or person having charge of the premises where such trade or employment is exercised, and the board shall take all necessary measures to prevent such exercise. Whoever refuses or neglects for twenty-four hours thereafter to obey the same shall forfeit not less than fifty nor more than five hundred dollars.

1855, 391, § 2.  
G. S. 26, § 55.  
P. S. 80, § 87.

R. L. 75, § 94.  
G. L. 111, § 146.  
8 Allen, 325.

116 Mass. 254.  
190 Mass. 442.

**SECTION 147. Appeal from Order.** Whoever is aggrieved by an order made under section one hundred and forty-three or one hundred and fifty-two, may, within three days after service of the order upon him, give written notice of appeal to the board or department, and file a petition for a jury in the superior court in the country where the premises affected are located, and, after notice to the board or department, may have a trial in the same manner as other civil cases are tried by jury. If by mistake or law or fact or by accident he fails within said three days to apply as aforesaid, and if it appears to the court that such failure was caused by such mistake or accident, and that he has not, since the service of such order upon him, violated it, he may within thirty days after the service of the order upon him apply for a jury.

1855, 391, § 3.  
G. S. 26, § 56.  
1865, 263.  
P. S. 80, § 88.  
1883, 133.  
1889, 193, § 1.  
R. L. 75, § 95.

G. L. 111, § 147.  
1948, 480, § 2.  
125 Mass. 182.  
135 Mass. 526.  
183 Mass. 491.  
190 Mass. 442.

260 Mass. 544.  
280 Mass. 76.  
315 Mass. 95.  
318 Mass. 684.  
319 Mass. 170.  
320 Mass. 81.

**SECTION 148. Trade not to be exercised meanwhile.** Such trade or employment shall not be exercised contrary to the order while such proceedings are pending, unless specially authorized by the board; and if so specially authorized all further proceedings by the board shall be stayed while such proceedings are pending. Upon any violation of the order, unless specially authorized as aforesaid, the proceedings shall forthwith be dismissed.

1885, 391, § 4.  
G. S. 26, § 57.

P. S. 80, § 89.  
1889, 193, § 1.

R. L. 75, § 96.  
G. L. 111, § 148.

**SECTION 149. Effect of Verdict.** The verdict may alter, affirm or annul the order, and shall be returned to the court for acceptance; and if accepted, shall have the authority and effect of a valid order of the board, and may also be enforced by the court in equity.

1855, 391, § 5.  
G. S. 26, § 58.

P. S. 80, § 90.  
1889, 193, § 2.

R. L. 75, § 97.  
G. L. 111, § 149.

**SECTION 150. Costs.** If the order is affirmed by the verdict, the board shall recover costs to the use of the town; if it is annulled and the petitioner has not been specially authorized by said board to exercise such trade or employment during the proceedings, he shall recover damages and costs against



the town; if it is annulled and the petition has been specially authorized as aforesaid, or if it is altered, he shall not recover damages, and the court may render judgment for costs in its discretion.

1855, 391, § 6.  
G. S. 26, § 59.

P. S. 80, § 91.  
1889, 198, § 1.

R. L. 75, § 98.  
G. L. 111, § 150.

**SECTION 151. Slaughter Houses, etc.** No person shall occupy or use a building for carrying on the business of slaughtering cattle, horses, mules, sheep or other animals, or for a melting or rendering establishment, or for other noxious or offensive trade and occupation, or permit or allow said trade or occupation to be carried on upon premises owned or occupied by him, without first obtaining the written consent and permission of the mayor and city council, or of the selectmen, or, in any town having a population of more than five thousand, of the board of health, if any, of the town where the building or premises are situated. This section shall not apply to any building or premises occupied or used for said trade or occupation on May eighth, eighteen hundred and seventy-one; but no person who used or occupied any building or premises on said date for said trades or occupations shall enlarge or extend the same without first obtaining the written consent and permission of the mayor and city council or the selectmen, or, in any town having population of more than five thousand, of the board of health, if any.

1692-3, 28, § 1.  
1696, 13.  
1710-11, 8, § 1.  
1785, 1, § 1.  
R. S. 21, § 47.  
1871, 167, § 1.  
1874, 308.  
P. S. 80, § 92.  
1898, 106.

1897, 428, § 2.  
R. L. 75, § 103.  
G. L. 111, § 151.  
1943, 332, § 9.  
109 Mass. 315, 320.  
114 Mass. 353.  
185 Mass. 448.  
288 Mass. 363.

193 N. E. 9.  
280 Mass. 77.  
288 Mass. 364.  
300 Mass. 174.  
308 Mass. 372.  
308 Mass. 150.  
Op. A. G. (1942-44)  
187.

The section is constitutional. *Watertown v. Mayo*, 109 Mass. 315.

The exception for existing buildings covers also new buildings erected in place of old buildings, to be used for the accommodation of the same business in the same place, without enlargement. *Watertown v. Sawyer*, 109 Mass. 320; *Somerville v. O'Neil*, 114 Mass. 353.

*Semble*, an establishment for rendering and melting grease, comes within the provisions of section 151 but not of section 154. *Cambridge v. John C. Dow Co.*, 185 Mass. 448.

The discharge of noxious substances into a natural stream in such quantities as materially affect the purity of the water as it reaches the land of a lower riparian proprietor, if it interferes with his use of the water, is an invasion of his rights of property and as a matter of law is unreasonable. For a slight impairment of quality, necessarily resulting from a reasonable use of the stream or of the land abutting on it, there is no liability. *McNamara v. Taft*, 196 Mass. 597; *Parker v. American Woolen Co.*, 195 Mass. 591.

**SECTION 152. Prohibition of Offensive Trades.** If any buildings or premises are so occupied or used, the department shall, upon application, appoint a time and place for hearing the parties, and, after due notice thereof to the party against whom the application is made and a hearing, may, if in its judgment the public health, comfort or convenience

so require, order any person to desist from further carrying on said trade or occupation in such buildings or premises; and no person shall thereafter continue so to occupy or use such buildings or premises. Whoever occupies or uses any building or premises in violation of this or the preceding section shall forfeit not more than two hundred dollars for every month of such occupancy or use and in like proportion for a shorter time.

1710-11, 8, § 2.

1785, 1, § 2.

R. S. 21, § 48.

1871, 167, §§ 1, 2.

1874, 308.

P. S. 80, §§ 92, 98.

1886, 101, § 4.

1893, 106.

R. L. 75, §§ 108, 109.

G. L. 111, § 152.

125 Mass. 182.

181 Mass. 565.

237 Mass. 57.

242 Mass. 196.

260 Mass. 546.

3 Op. A. G. 85.

This section gave to the State Board of Health the power already given to local boards by section 143. The only difference is that the State Board is bound to give notice to a party and allow him a hearing before it can pass an order of prohibition. The order is subject to appeal and trial by jury. *Sawyer v. State Board of Health*, 125 Mass. 182.

**SECTION 153. Restraint of Offensive Trades.** The superior court may restrain the unauthorized occupancy, use or extension of any building or premises occupied or used for the trades or occupations aforesaid, and enforce the orders of the department issued under the preceding section; but this and the two preceding sections shall not impair any other remedies against nuisances.

1871, 167, § 3.

1874, 290.

P. S. 80, §§ 94, 95.

R. L. 75, § 110.

G. L. 111, § 153.

185 Mass. 448.

242 Mass. 196.

The Supreme Court has no original equity jurisdiction in this matter. *Cambridge v. John C. Dow Co.*, 185 Mass. 448.

**SECTION 154. Killing and rendering of Horses, etc.** A person engaged in or desiring to engage in the business of killing horses, or in the rendering of horses or other animals, shall annually in March apply for a license to the board of health of the town where such business is to be carried on. The application shall be in writing and signed by the persons desiring to carry on such business, or, if the applicant is a corporation, by a duly authorized officer thereof. It shall state the names in full and the addresses of all persons, desiring to carry on such business, or, if a corporation is the applicant, the names of all its officers, and the street or other place where the business is to be conducted. The board of health of a town may grant such licenses after it is satisfied that the applicants have a suitable building and plant in a situation approved by said board, and that they have suitable trucks or wagons for the removal of dead animals. The license shall state the name of the licensee, the situation of the building or establishment where the business is to be carried on, and shall continue in force until April first of the year next ensuing unless sooner revoked. The board of health shall keep a record of such licenses granted by it, and shall notify the director of livestock disease control of the granting of any such license, giving the name and address of the licensee. The fee for a license shall not exceed one dollar, and a license may be revoked at any time by the board of health. Licensees shall report to the director of



livestock disease control, in such form and at such times as he may order, every animal received by them which is infected with a contagious disease. No unlicensed person shall carry on the business of killing horses or of rendering horses or other animals. So much of section thirty of chapter one hundred and twenty-nine as provides that no person shall knowingly sell an animal with a contagious disease shall not apply to any person who sells such animal to a licensee under this section, if such animal is to be killed or rendered at the establishment of such licensee. Whoever violates this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than three months, or both.

1901, 184.	1912, 608, §§ 1, 8.	1934, 840, § 9.
R. L. 75, § 111.	1919, 350, §§ 39, 44.	185 Mass. 448.
1902, 116, §§ 1, 8.	G. L. 111, § 154.	308 Mass. 151.
1907, 248.		

### STABLES.

**SECTION 155. Licenses for Stables.** No person shall erect, occupy or use for a stable any building in a city, or in a town having more than five thousand inhabitants, unless such use is licensed by the board of health, and, in such case, only to the extent so licensed. This section shall not prevent any such occupation and use authorized by law on May fourth, eighteen hundred and ninety-five, to the extent and by the person so authorized, but the board of health of such a city or town may make such regulations or orders as, in its judgment, the public health requires relative to drainage, ventilation, size and character of stalls, bedding, number of animals and storage and handling of manure in any stable in its city or town.

1890, 230; 395.	1896, 332.	1912, 486.
1891, 220, §§ 1, 8.	1897, 300, § 3.	G. L. 111, § 155.
1895, 213, §§ 1, 2.	R. L. 102, § 69.	210 Mass. 378.

The section is constitutional. *Newton v. Joyce*, 166 Mass. 83.

The statute does not apply to a stable placed temporarily on land taken for a reservation by the Metropolitan Park Commission. *Teasdale v. Newell and Snowling Construction Company*, 192 Mass. 440.

If a license is refused, it is of no avail, in an action to restrain the occupation, for the defendant to show that the board of health acted unjustly or to show that the building was in excellent sanitary condition. *Worcester Board of Health v. Tupper*, 210 Mass. 378.

A person cannot be enjoined from erecting a stable in accordance with the terms of the license. *White v. Kenney*, 157 Mass. 12; see also *Langmaid v. Reed*, 159 Mass. 409.

A license to erect and use a stable, granted without limit of time, is not revocable where there has been no violation of its terms. *Lowell v. Archambault*, 189 Mass. 70.

**SECTION 156. Stables in Vicinity of Churches regulated.** No person shall in a city occupy or use a building for a livery stable, or a stable for taking or keeping horses and carriages for hire or to let, within two hundred feet of a church or meeting house erected and used for the public worship of God, without the written consent of the religious so-

ciety or parish worshipping therein; but this section shall not prevent such occupation and use if authorized by law on May seventeenth, eighteen hundred and ninety-one, to the extent then authorized.

1891, 220, §§ 1-3.	R. L. 102, § 70.	G. L. 111, § 156.
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A stable which is let out in specified parts to tenants who take care of their own horses is not a livery stable within the prohibition of this section. *Congregation Beth Israel v. O'Connell et al.*, 187 Mass. 236.

**SECTION 157. Penalty.** Whoever violates any provision of the two preceding sections or of a regulation or order made thereunder shall be punished by a fine of five dollars for each day such violation continues.

1891, 220, § 4.	R. L. 102, § 71.	G. L. 111, § 157.
1895, 213, § 3.		

**SECTION 158. Licenses for Stables in Towns of less than Five Thousand.** The selectmen of towns having a population of five thousand or less may license suitable persons to keep more than four horses in specified buildings or places within their respective towns, and may revoke such licenses at pleasure. Whoever, not being licensed as aforesaid, occupies or uses a building or place for a stable for more than four horses shall forfeit not more than fifty dollars for every month he so occupies or uses such building or place, and in like proportion for a shorter time. The superior court may restrain the erection, occupancy or use of stables contrary to this section or section one hundred and fifty-five or one hundred and fifty-six.

1851, 319.	1891, 220, § 4.	159 Mass. 409.
1852, 129.	1895, 213, § 3.	166 Mass. 83.
1853, 363.	1897, 428, § 2.	167 Mass. 380.
G. S. 88, § 32.	R. L. 102, §§ 71, 72.	168 Mass. 76.
P. S. 102, § 89.	G. L. 111, § 158.	210 Mass. 378.
1890, 230; 395.	157 Mass. 12.	242 Mass. 196.

The statute applies when more than four horses are kept on the same premises, even if they are in separate buildings with only four in a building. *Brookline v. Hatch*, 167 Mass. 380.

### WATER SUPPLY.

See green sheet for 153 - 163 (superseded)  
(See also chapter 111, section 17; chapter 40, sections 21, 24, 38, 39, 40, 41, 42, which deal with allied subjects.)

**SECTION 159. Supervision of Inland Waters.** The department shall have the general oversight and care of all inland waters and of all streams and ponds used by any city, town, water supply or fire district or public institution or by any water or ice company in the commonwealth as sources of ice or water supply and of all springs, streams and water courses tributary thereto. It shall be provided with maps, plans and documents suitable for such purposes, and shall keep records of all its transactions relative thereto. It shall give notice to the attorney general of any violation of law relative to the pollution of water supplies and inland waters.

1886, 274, §§ 1-3.	1919, 350, § 96.	818 Mass. 523.
1888, 375, §§ 1-3.	G. L. 111, § 159.	319 Mass. 705.
1890, 441, § 1.	179 Mass. 885.	6 Op. A. G. 192.
1897, 510, § 1.	287 Mass. 58.	Op. A. G. 1932.
R. L. 75, §§ 112, 115.		



(See page 116, insert in place of sections as numbered.)

#### SECTION 159. SUPERVISION OF INLAND WATERS.

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1886, 274 s 1,3	179, Mass. 385
1888, 375 s 1,3	237, Mass. 58
1890, 441 s 1	318, Mass. 523
1897, 510 s 1	319, Mass. 705
R.L. 75 s 112,115	6 Op. A.G. 192
1919, 350 s 96	Op. A.G. 1932
G.L. 111, s 159	1951, 448 s 2

#### SECTION 160. EXAMINATION OF WATER SUPPLY.

**RULES.** The department may cause examinations of such waters to be made to ascertain their purity and fitness for domestic use, or the possibility of their impairing the interests of the public or of persons lawfully using them or of imperilling the public health. It may make rules and regulations and issue such orders as in its opinion may be necessary to prevent the pollution and to secure the sanitary protection of all such waters used as sources of water supply. It may delegate the granting and withholding of any permit required by such rules or regulations to state departments, boards and commissions and to selectmen in towns, and to boards of health, water boards and water commissioners in cities and towns, to be exercised by such selectmen, departments, boards and commissions, subject to such recommendation and direction as shall be given from time to time by the department; and upon complaint of any person interested, the department shall investigate the granting or withholding of any such permit, and make

such orders relative thereto as it may deem necessary for the protection of the public health and to restrain the use of such waters to the extent as in its opinion such use will not tend to adversely affect the public health. Whoever violates any such orders, rules or regulations shall be punished by a fine of not more than five hundred dollars, to the use of the commonwealth, or by imprisonment for not more than one year or both.

1886, 274 s 2	189, Mass. 247
1888, 375 s 2	191, Mass. 384
1890, 441 s 1,5	230, Mass. 6
1897, 510 s 1,6	237, Mass. 58
R.L. 75 s 113, 122	300, Mass. 176
1907, 467	4 Op. A.G. 403
1919, 350, s 96	6 Op. A.G. 466,469
G.L. 111, s 160	Op. A.G. 132
1951, 448 s 3	

#### SECTION 162. REMOVAL OF CAUSES OF POLLUTION.

Upon petition to the department by the mayor of a city or the selectmen of a town, the managing board or officer of any public institution, or by a board of water commissioners, or the president of a water or ice company, stating that manure, excrement, garbage, sewage or any other matter pollutes or tends to pollute the waters of any stream, pond, spring, underground waters, or watercourse used by such city, town, institution or company as a source of water supply, the department shall appoint a time and place within the county where the nuisance or pollution is alleged to exist for a hearing, and after notice thereof to parties interested and a hearing, if in its judgment the public health so requires, shall, by an order served upon the party causing or permitting such pollution, prohibit the deposit, keeping or discharge of any such cause of pollution, and shall order him to desist therefrom and to remove any such cause of pollution; but the department shall not prohibit the cultivation and use of the soil in the ordinary methods of agriculture if no human excrement is used thereon. The department shall not prohibit the use of any structure in existence on June eleventh, eighteen hundred and ninety-seven, upon complaint made by the board of water commissioners of any town or by any water



## PUBLIC HEALTH

Chap. III Cont.)

(See page 116, insert in place of sections as numbered.)

or ice company unless such board of water commissioners or company files with the department a vote of its city council, selectmen or company that such town or company will at its own expense make such changes in said structure or its location as said department shall deem expedient. Such vote shall be binding on such town or company. All damages caused by such changes shall be paid by such town, or company; and if the parties cannot agree thereon, the damages may be recovered under chapter seventy-nine. Whoever violates such an order shall be punished by a fine of not more than five hundred dollars, to the use of the commonwealth, or by imprisonment for not more than one year, or both.

SECTION 163. APPEAL FROM ORDER. Whoever is aggrieved by an order made under section one hundred and sixty or section one hundred sixty-two may appeal therefrom as provided in section one hundred and forty-seven; but such notice as the court shall order shall also be given to the board of water commissioners and mayor, or chairman of the selectmen, or president or other officer of the water or ice company interested in such order. While the appeal is pending the order of the department shall be complied with, unless otherwise authorized by it.

1890, 441 s 2,5,7  
1897, 510 s 3,6,9  
R.L. 75, s 118,122  
1919, 350 s 96  
G.L. 111, s 162

189, Mass. 247  
300, Mass. 174  
311, Mass. 722  
4 Op. A.G. 403  
1951, 448 s 4

1890, 441 s 3  
1897, 510 s 4  
R.L. 75, s 119  
1919, 350 s 96

G.L. 111, s 163  
186, Mass. 330  
189, Mass. 247  
1951, 448 s 5

**SECTION 160. Examination of Water Supply.**  
**Rules.** The department may cause examinations of such waters to be made to ascertain their purity and fitness for domestic use, or the possibility of their impairing the interests of the public or of persons lawfully using them or of imperilling the public health. It may make rules and regulations to prevent the pollution and to secure the sanitary protection of all such waters used as sources of water supply. It may delegate the granting and withholding of any permit required by such rules or regulations to state departments, boards and commissions and to selectmen in towns, and to boards of health, water boards and water commissioners in cities and towns, to be exercised by such selectmen, departments, boards and commissions, subject to such recommendation and direction as shall be given from time to time by the department; and upon complaint of any person interested, the department shall investigate the granting or withholding of any such permit, and make such orders relative thereto as it may deem necessary for the protection of the public health. Whoever violates any such orders, rules or regulations shall be punished by a fine of not more than five hundred dollars, to the use of the commonwealth, or by imprisonment for not more than one year, or both.

1886, 274, § 2.  
 1888, 375, § 2.  
 1890, 441, §§ 1, 5.  
 1897, 510, §§ 1, 6.  
 R. L. 75, §§ 118, 122  
 1907, 467.

1919, 350, § 96.  
 G. L. 111, § 160.  
 189 Mass. 247.  
 191 Mass. 384.  
 230 Mass. 6.

237 Mass. 58.  
 300 Mass. 176.  
 4 Op. A. G. 403.  
 6 Op. A. G. 466, 469.  
 Op. A. G. 1932.

The power to make rules and regulations is a delegated legislative power, and the action of the board in working out the details of the legislative act does not require a hearing. The questions of fact decided in making the rules cannot be tried over by the court. On the other hand, if the board proceeds under section 162 to investigate a particular case of pollution the owner is entitled to a hearing and to an appeal to a jury. *Commonwealth v. Sisson*, 189 Mass. 247.

A riparian owner cannot acquire, as against the Commonwealth, a prescriptive right to pollute a stream. *Ibid.*

The State Board of Health has no authority to require a local board to issue permits for fishing upon a reservoir owned by the town (3 Op. Atty.-Gen. 364); but a town has no right absolutely to prohibit boating or fishing upon a great pond unless such prohibition is necessarily involved in the use of such great pond as a source of water supply, and the State Board may issue a permit to boat and fish provided such issuance is not inconsistent with the proper protection of the public health. 3 Op. Atty.-Gen. 448.

Under R. L., c. 75, § 113, as amended by St. 1907, c. 467, § 1, a rule of the State Board of Health, that "No person shall . . . unless permitted by a written permit of the board of water commissioners of the city of Haverhill, fish in . . . Crystal Lake . . . so called, in the city of Haverhill . . . said lakes . . . being used by said city as sources of water supply," is valid and enforceable. *Commonwealth v. Hyde*, 230 Mass. 6.

**SECTION 161. Effect of Publication of Rule.** The publication of an order, rule or regulation made by the department under the preceding or the following section in a newspaper of the town where such order, rule or regulation is to take effect or, if no newspaper is published in such town, the posting of a copy of such order, rule or regulation in a public place therein shall be legal notice to all persons; and an affidavit of such publication or posting by the person causing such notice to be published or posted, filed and recorded, with a copy of the notice, in the office of the town clerk, shall be admitted as evidence of the time when and the place and manner in which the notice was given.

1899, 308.

R. L. 75, § 114.

G. L. 111, § 161.

**SECTION 162. Removal of Causes of Pollution.**  
 Upon petition to the department by the mayor of a city or the selectmen of a town, the managing board or officer of any public institution, or by a board of water commissioners, or the president of a water or ice company, stating that manure, excrement, garbage, sewage or any other matter pollutes or tends to pollute the waters of any stream, pond, spring or water course used by such city, town, institution or company as a source of water supply, the department shall appoint a time and place within the county where the nuisance or pollution is alleged to exist for a hearing, and after notice thereof to parties interested and a hearing, if in its judgment the public health so requires, shall, by an order served upon the party causing or permitting such pollution, prohibit the deposit, keeping or discharge of any such cause of pollution, and shall order him to desist therefrom and to remove any such cause of pollution; but the department shall not prohibit the cultivation and use of the soil in the ordinary methods of agriculture if no human excrement is used thereon. The department shall not prohibit the use of any structure in existence on June eleventh, eighteen hundred and ninety-seven, upon a complaint made by the board of water commissioners of any town or by any water or ice company unless such board of water commissioners or company files with the department a vote of its city council, selectmen or company that such town or company will at its own expense make such changes in said structure or its location as said department shall deem expedient. Such vote shall be binding on such town or company. All damages caused by such changes shall be paid by such town, or company; and if the parties cannot agree thereon, the damages may be recovered under chapter seventy-nine. Whoever violates such an order shall be punished by a fine of not more than five hundred dollars, to the use of the commonwealth, or by imprisonment for not more than one year, or both.

1890, 441, §§ 2, 5, 7.  
 1897, 510, §§ 3, 6, 9.  
 R. L. 75, §§ 118, 122.

1919, 350, § 96.  
 G. L. 111, § 162.  
 189 Mass. 247.

300 Mass. 174.  
 311 Mass. 722.  
 4 Op. A. G. 403.

**SECTION 163. Appeal from Order.** Whoever is aggrieved by an order made under the preceding section may appeal therefrom as provided in section one hundred and forty-seven; but such notice as the court shall order shall also be given to the board of water commissioners and



mayor, or chairman of the selectmen, or president or other officer of the water or ice company interested in such order. While the appeal is pending the order of the department shall be complied with, unless otherwise authorized by it.

1890, 441, § 3.	1919, 350, § 96.	186 Mass. 380.
1897, 510, § 4.	G. L. 111, § 163.	189 Mass. 247.
R. L. 75, § 119.		

The right of appeal does not apply to rules made under section 160. *Nelson v. State Board of Health*, 186 Mass. 330.

**SECTION 164. Enforcement of Law.** The supreme judicial or superior court, upon the application of the department or of any party interested, may enforce the orders, rules and regulations of said department, and restrain the use or occupation of the premises or such portion thereof as said department may specify on which the material is deposited or kept, or such other cause of pollution exists, until the orders, rules and regulations of the department have been complied with.

1890, 441, § 4.	R. L. 75, § 120.	G. L. 111, § 164.
1897, 510, § 5.	1919, 350, § 96.	300 Mass. 174.

**SECTION 165. Entry on Premises. Compensation.** The agents and servants of the department may enter any building, structure or premises to ascertain whether sources of pollution or danger to the water supply there exists, and whether the rules, regulations and orders aforesaid are obeyed. Their compensation for services rendered in connection with proceedings under section one hundred and sixty-two shall be fixed by the department, and shall in the first instance be paid by the commonwealth; but the whole amount so paid shall, at the end of each year, be justly and equitably apportioned by the commissioner of corporations and taxation between such towns or companies as, during said year, have instituted said proceedings, and may be recovered in an action by the state treasurer, with interest from the date of demand.

1897, 510, § 2.	1919, 350, §§ 52,	G. L. 111, § 165.
R. L. 75, § 121.	53, 96..	Op. A. G. (1942) 110.

**SECTION 166. Application of Preceding Sections.** The seven preceding sections shall not apply to the Connecticut river. The four preceding sections and so much of sections one hundred and fifty-nine to one hundred and sixty-one, inclusive, as refers to domestic water supplies shall not apply to the Merrimack river, or to so much of the Concord river as lies within the limits of Lowell, or to springs, streams, ponds, or water courses over which the metropolitan district commission has control.

1890, 441, § 6.	R. L. 75, § 123.	1919, 350, § 123.
1897, 510, § 7.	1910, 550.	G. L. 111, § 166.

**SECTION 167. Protection of Sources of Water Supply.** No sewage, drainage, refuse or polluting matter, of such kind and amount as either by itself or in connection with other matter will corrupt or impair the quality of the water of any pond or stream used as a source of ice or water supply by a town, public institution or water company for domestic use, or render it injurious to health, and no human excrement, shall be discharged into any such stream or pond, or upon their banks if any filter basin so used is there situated, or into any feeders of

such pond or stream within twenty miles above the point where such supply is taken.

1878, 183, §§ 1, 2.	R. L. 75, § 124.	219 Mass. 287.
P. S. 80, § 96.	G. L. 111, § 167.	300 Mass. 174.
1896, 252, § 1.	185 Mass. 10.	311 Mass. 715.

Such statutes are reasonable and are not an interference with property so as to require compensation to the owner. *Sprague v. Dorr*, 185 Mass. 10.

A landlord is liable in a civil action for the acts of a tenant in polluting a water course if the building leased is adapted and intended to be used in the manner complained of. *Jackman v. Arlington Mills*, 137 Mass. 277.

**SECTION 168. Prescriptive Rights unaffected. Application limited.** The preceding section shall not destroy or impair rights acquired by legislative grant prior to July first, eighteen hundred and seventy-eight, or destroy or impair prescriptive rights of drainage or discharge to the extent to which they lawfully existed on that date; nor shall it be applicable to the Merrimack or Connecticut rivers, or to so much of the Concord river as lies within the limits of Lowell.

1878, 183, § 3.	R. L. 75, § 125.	G. L. 111, § 168.
P. S. 80, § 97.		

Since the passage of this statute, a person cannot, as against a city or town, acquire by prescription the right to foul a stream within twenty miles above the point where a water supply is taken. *Brookline v. Mackintosh*, 133 Mass. 215; see also *Harris v. Mackintosh*, 133 Mass. 228.

**SECTION 169. Injunction against Pollution of Water Supply.** The supreme judicial or superior court, upon application of the mayor of a city, the selectmen of a town, the managing board or officer of a public institution, or a water or ice company which is interested, may enjoin the violation of section one hundred and sixty-seven.

1884, 154, § 1.	G. L. 111, § 169.	219 Mass. 287.
1896, 252, § 2.	133 Mass. 228.	300 Mass. 174.
R. L. 75, § 126.	189 Mass. 183.	311 Mass. 721.

Pollution may be enjoined even when the city is at present able to protect itself against the pollution. *Martin v. Gleason*, 139 Mass. 183.

**SECTION 170. No Person to defile Any Spring or Source of Water, etc.** Whoever wilfully and maliciously defiles or corrupts any spring or other source of water, or reservoir, or destroys or injures any pipe, conductor of water or other property pertaining to an aqueduct, or aids or abets in any such trespass, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

1843, 65, § 2.	P. S. 208, § 7.	G. L. 111, § 170.
G. S. 166, § 6.	R. L. 75, § 127.	

**SECTION 171. Wilful Corrupting of Courses of Water Supply prohibited.** Whoever wilfully deposits excrement or foul or decaying matter in water used for domestic water supply, or upon the shore thereof within five rods of the water, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month. A police officer or constable of a town where such water is wholly or partly situated, acting within the limits of his town,



and any executive officer or agent of a water board, board of water commissioners, public institution or water company furnishing water or ice for domestic purposes, acting upon the premises of such board, institution or company and not more than five rods from the water, may without a warrant arrest any person found in the act of violating this section, and detain him until a complaint can be made against him therefor. But this section shall not interfere with the sewage of a town or public institution, or prevent the enrichment of land for agricultural purposes by the owner or occupant thereof.

1879, 224.  
P. S. 208, § 8.

R. L. 75, § 128.

G. L. 111, § 171.

**SECTION 172. Bathing prohibited in Sources of Water Supply.** Whoever bathes in a pond, stream or reservoir the water of which is used for domestic water supply for a town shall be punished by a fine of not more than ten dollars.

1884, 179.

R. L. 75, § 129.

G. L. 111, § 172.

**SECTION 173. Protection of Domestic Water Supplies.** Any police officer or constable of a town where any pond, stream or reservoir used for domestic water supply is wholly or partly situated, acting within the limits of his town, and any executive officer of a water board, board of water commissioners, public institution or water company, furnishing water for domestic purposes, or agent of such water board, board of water commissioners, public institution or water company, duly authorized in writing by such board, institution or company, acting upon the premises of such board, institution or company and not more than five rods from the water for such supply may, without a warrant, arrest any person found in the act of bathing in a pond, stream or reservoir the water of which is used for the purpose aforesaid, and detain him in some convenient place until a complaint can be made against him therefor.

1908, 539.

G. L. 111, § 173.

**SECTION 173A. Police Officers employed to protect Public Sources of Water Supply from Pollution.** Police employed by the water board or board of water commissioners of a city, town or water district, a public institution or water company, and duly appointed in one of the cities or town within an area from which water is being supplied under the direction of such board, institution or company, or over which such board, institution or company has control, or where such water is furnished by such city, town, district, institution or company shall within and throughout any or all of such areas have all the powers and duties of police officers of cities and towns.

1938, 293.

**SECTION 173B. Right to Enter Premises.** Any water board or board of water commissioners of a city, town or water district and any executive officer or agent of any such board or of a public institution or water company furnishing water for domestic purposes, and any police officer employed by such a water board, board of water commissioners, public institution or water company, may enter any premises except dwelling houses within the water shed of the source of water supply of such city, town, dis-

trict, institution or company to ascertain whether the provisions of this chapter relative to water supply and the rules and regulations adopted under section one hundred and sixty are being obeyed.

1943, 84.

**SECTION 174. Driving on Ice on Ponds used for Water Supply prohibited.** Whoever, not being engaged in cutting or harvesting ice, or in hauling logs, wood or lumber, drives any animal on the ice of a pond or stream used for domestic water supply for a town shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month.

1880, 185.  
P. S. 80, §§ 101, 102

R. L. 75, § 180.

G. L. 111, § 174.

**SECTION 174A. Defilement by Gulls or Terns of Waters Used for Domestic Water Supply.** In order to preserve the purity and prevent the pollution of the waters of any reservoir, pond, stream or stand-pipe used for domestic water supply by the metropolitan water district or by a town, water supply or fire and water district, public institution or water company, the public board of commission, or the governing board in case of a water company, having control of such waters may authorize one or more of its employees, so far as permissible under federal law, to take such reasonable means and use such appliances and weapons as, in the judgment of such public board or commission, or governing board, as the case may be, will prevent the defilement of said waters by gulls or terns, any provision of chapter one hundred and thirty-one to the contrary notwithstanding. Every such public board or commission and governing board shall keep an accurate account of all birds killed by its employees under authority of this section and submit such account to the director of the division of fisheries and game of the department of conservation at such times and covering such periods as he may prescribe.

1931, 21, § 1.

318 Mass. 523.

#### PROTECTION OF CHARLES RIVER.

**SECTION 175. Department to protect Charles River from Pollution.** The department may make reasonable orders, having due regard for the particular circumstances of each case, prohibiting the entrance or discharge of sewage into any part of the Charles river or its tributaries, and preventing the entrance or discharge therein of any other substance which may be injurious to the public health or may tend to create a public nuisance or to obstruct the flow of water, including all waste or refuse from any factory or other establishment where persons are employed. Any finding of fact made by the department in making such an order shall be prima facie evidence in any proceeding to enforce such order. The department shall consult and advise with the owner of any factory or other establishment, or with any municipality, discharging any substance into the Charles river or any of its tributaries, at his or its request or of the department's own motion, as to the best practicable and reasonably available means of rendering such substance harmless. The supreme judicial and the



superior court shall have jurisdiction in equity to enforce any order made by the department hereunder. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney general upon the request of the department. Whoever violates any order of the department made under any provision of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars. Nothing herein shall affect any powers of the metropolitan district commission under section thirty-nine or seventy-six of chapter ninety-two.

1906, 158.  
1920, 541.

G. L. 111, § 175.

1941, 353.

### VACCINATION.

**SECTION 181. Boards of Health to enforce Vaccination.** Boards of health, if in their opinion it is necessary for public health or safety, shall require and enforce the vaccination and revaccination of all the inhabitants of their towns, and shall provide them with the means of free vaccination. Whoever refuses or neglects to comply with such requirement shall forfeit five dollars.

1809, 116, § 2.  
R. S. 21, § 45.  
1855, 414, §§ 3, 4, 6.  
G. S. 26, §§ 28, 29.  
P. S. 80, §§ 52, 53.

1894, 515, §§ 3, 4.  
R. L. 75, § 137.  
1902, 190, § 1.  
G. L. 111, § 181.

183 Mass. 242.  
299 Mass. 368.  
7 Op. A. G. 370, 375.  
197 U. S. 11.

**SECTION 182. Inmates of Factories, etc., to be vaccinated.** The board of health of a town where any incorporated manufacturing company, infirmary, training or industrial school, hospital or other establishment where the poor or sick are received, prison, jail or house of correction, or any institution supported or aided by the commonwealth, is situated may, if it decides that it is necessary for the health of the employees or inmates or for the public safety, require the authorities of said establishment or institution, at the expense thereof, to cause all said employees or inmates to be vaccinated.

1855, 414, §§ 5, 6.  
G. S. 26, § 30.  
P. S. 80, § 54.  
1894, 515, § 5.

1898, 433, § 23.  
R. L. 75, § 138.  
G. L. 111, § 182.  
1931, 426, § 219.

5 Op. A. G. 463.  
7 Op. A. G. 371.  
299 Mass. 368.

**SECTION 183. Exemptions.** Any person over twenty-one presenting a certificate, signed by the register of a probate court, that he is under guardianship shall not be subject to section one hundred and eighty-one; and any child presenting a certificate, signed by a registered physician designated by the parent or guardian, that the physician has at the time of giving the certificate personally examined the child and that he is of the opinion that the physical condition of the child is such that his health will be endangered by vaccination, shall not, while such condition continues, be subject to the two preceding sections.

1894, 515, § 2.  
R. L. 75, § 139.  
1902, 190, § 2;

544, §§ 10, 35.  
G. L. 111, § 183.  
238 Mass. 528.

299 Mass. 368.  
7 Op. A. G. 370, 375.

### MISCELLANEOUS PROVISIONS.

**SECTION 184. County Bacteriological Laboratories.** In order to better preserve public health and secure greater accuracy in the diagnosis of communicable diseases, county commissioners may establish and maintain bacteriological laboratories, or

provide such laboratory facilities for their respective counties as they deem advantageous and may expend necessary sums therefor. No expenditure shall be made under this section until the laboratories or the laboratory facilities established or provided in accordance herewith have been inspected and approved by the department.

1913, 328.  
1914, 792, § 1.

1919, 350, § 96.  
G. L. 111, § 184.

299 Mass. 367.

**SECTION 184A. Definition of and Further Regulating Bacteriologic Laboratories.** The department, at the request of any person owning or operating a bacteriological laboratory, may issue a certificate of approval of the performance at such laboratory of bacteriological or serological tests set forth in such certificate; provided, that no such certificate shall be granted hereunder except in accordance with such suitable and reasonable rules and regulations as the department shall establish; authority to establish, and from time to time to alter and amend, such rules and regulations being hereby granted to the department. Rules and regulations governing approval of such bacteriological laboratories made under authority hereof may include provisions relative to the location and equipment of such laboratories, the personal and professional qualifications of the personnel thereof, and the methods employed thereat. The department may from time to time submit to, or request from, any such specimens for examination as it may deem necessary to determine whether or not such laboratory can properly perform such tests. Certificates of approval issued under authority hereof shall be valid for one year from their dates of issue and may be annually renewed. The fee for the issue, and for each annual renewal, of every such certificate shall be five dollars; provided, that no such fee shall be charged or collected on account of any such laboratory established and maintained by the commonwealth or by any political subdivision thereof. Any such certificate may be revoked by the department, after thirty days' notice to such laboratory and the opportunity to be heard by the department, if in its judgment the public interest so requires.

For the purposes of this section, a bacteriological laboratory is defined to be a place or establishment advertised, and maintained or purported to be maintained, in whole or in part, for the purpose of accepting for and subjecting to bacteriological or serological study or analysis, or both, specimens of blood, sputum, urine, feces or other fluids, secretions or excretions of the body or persons ill, or suspected of being ill, with a disease dangerous to the public health, or of the body of persons who are to serve as donors or recipients of blood or derivatives of blood.

The department is hereby further authorized to grant certificates of approval for laboratory tests upon milk, foods, eating utensils, water and sewage in accordance with such rules and regulations as the department may establish under the authority granted above. Only one certificate and one fee shall be required for all the tests mentioned in this section.

1939, 344.

1946, 155, § 1.

1946, 155, § 2.

*See next Green Sheet*

**SECTION 185. Certain Apparatus to be disinfected, etc.** The proprietor or manager of any place

(See page 120, insert after Section 184A)

SECTION 184B. RESTRICTING ESTABLISHMENT  
AND MAINTENANCE OF BLOOD BANKS, SO CALLED. No  
blood banks, so called, shall be established  
and maintained in this commonwealth except by  
a hospital licensed by the department under

the provisions of section seventy-one or by  
the American Red Cross. Any violation of this  
section shall be punished by a fine of not  
more than five hundred dollars.

1950, 431





of public amusement or other place where there are provided for public use and entertainment mutoscopes or any other machine or apparatus of such nature that the person using the same breathes or speaks into it, or, to see or hear, holds any part thereof in contact with or near to his eyes or ears, shall disinfect the same, in such manner as shall be approved by the board of health, at least twice during such hours, in every twenty-four hours, as the machine or apparatus is offered for use by the public. This section shall not apply to telephones.

1908, 881, § 1.

G. L. 111, § 185.

**SECTION 185A. Department of Public Health to Prescribe and Furnish Certain Rules of Instruction, Test Cards, etc.** The department of public health, after consultation with the department of education, shall prescribe and furnish to school committees suitable rules of instruction, test cards, blanks, record books and other useful appliances for accomplishing the purposes of sections fifty-three to fifty-seven, inclusive, of chapter seventy-one and may furnish said material to such boards of health as may require it in the performance of their duties. The department may provide for pupils in the teachers colleges instruction and practice in the best methods of testing the sight and hearing of children.

1945, 543, § 2.

**SECTION 186. Use of Certain Machines prohibited.** No person shall provide for public use or entertainment in any place of public amusement or other place of public resort any so called lung testing machine or similar contrivance the use of which requires the application of any part thereof to the lips. Violations of this or the preceding section shall be punished by a fine of not more than twenty-five dollars.

1908, 881, §§ 2, 3.

G. L. 111, § 186.

**SECTION 187. Enforcement of Provisions of Chapter.** The supreme judicial or superior court, upon

the application of the board of health of a town, may enforce the orders of said board relative to public health. Sections thirty-four and thirty-five of chapter two hundred and fourteen shall apply to such cases; but a jury may be summoned under said sections, if there is no sitting of the court, within one month after issues have been framed.

1898, 460, §§ 1, 2.  
1899, 143.R. L. 75, § 141.  
G. L. 111, § 187.

237 Mass. 56.

**SECTION 188. Disposition of Forfeitures.** Fines and forfeitures incurred under the general laws, the special laws applicable to a town, or the ordinances, by-laws and regulations of a town, relative to health, shall inure to the use of such town except where the forfeiture is incurred by said town.

R. S. 21, § 46.  
1849, 211, § 7.  
G. S. 26, § 50.P. S. 80, § 81.  
R. L. 75, § 55.  
G. L. 111, § 188.5 Cush. 408.  
153 Mass. 211.

**SECTION 189. Chapter extends to Cities.** Unless the context otherwise requires, the provisions of this chapter shall apply to cities so far as consistent with their several charters.

G. S. 26, § 60.  
P. S. 80, § 106.

R. L. 75, § 140.

G. L. 111, § 189.

**SECTION 65C. Treatment of Cancer at Westfield State Sanatorium.** The department of public health is hereby authorized to establish and maintain at the Westfield state sanatorium a division for the care and treatment of persons suffering from cancer.

Patients may be admitted to said division in the same manner and upon the same terms as to the Pondville hospital under sections sixty-nine A to sixty-nine D, inclusive, of chapter one hundred and eleven of the General Laws, as appearing in the Tercentenary Edition thereof, and the provisions of said sections shall, as far as apt, apply to said division. (1935, 496, appvd. August 14, 1935. Declared an emergency law.)

## CHAPTER 112.

## REGISTRATION OF CERTAIN PROFESSIONS AND OCCUPATIONS.

## SECT.

12. Disclosure of certain information by registered physician not slander or libel.

35. Sale, distribution and delivery of certain drugs and medicine at wholesale.

36A. License.

**SECTION 12. Disclosure of Certain Information by Registered Physician not Slander or Libel.** Any registered physician or surgeon who knows or has reason to believe that any person is infected with a venereal disease as defined under section six of chapter one hundred and eleven may disclose such information to any person from whom the infected person has received a promise of marriage or to the parent or guardian of such person if a minor. Such information given in good faith by a registered physician or surgeon shall not constitute a slander or libel. *see green sheet*

1918, 111.

G. L. 112, § 12.

1948, 129, § 7.

**SECTION 35. Sale, Distribution and Delivery of Certain Drugs and Medicine at Wholesale.** Sections thirty and thirty-six A to forty-one, inclusive, of this chapter, sections twenty-nine to thirty G, inclusive, of chapter one hundred and thirty-eight and section two of chapter two hundred and seventy shall not apply to physicians who put up their own prescriptions or dispense medicines to their patients; nor to the manufacture of patent and proprietary medicines, nor to the sale of such medicines other than the sale of those intended for internal use which are hypnotics or which contain barbituric acid or its derivatives and other than the sale of such medicines which are exclusively prepared for hypodermic use in the human system; nor to the manufacture or sale of the following drugs and chemicals used in the arts, or as a household remedy: alum, ammonia, bicarbonate of soda, borax, camphor, cas-



tor oil, chlorinated lime, citric acid, cod liver oil, copperas, cotton seed oil, cream of tartar, dyestuffs, Epsom salt, flaxseed, flaxseed meal, gelatine, ginger, Glauber's salt, glycerine, gum arabic, gum tragacanth, hops, hyposulphite of soda, licorice, lime water, linseed oil, litharge, magnesia, olive oil, peroxide of hydrogen, petrolatum, phosphate of soda, rhubarb, Rochelle salt, rosin, sal ammoniac, salt-peter, senna, slippery elm bark, spices for seasoning, sugar of milk, sulphate of copper, sulphur, tartaric acid, turpentine, extract of witch hazel and zinc oxide; nor to the sale in the original packages of the following if put up by registered pharmacists, manufacturers or wholesale dealers in conformity with law; flavoring essences or extracts, essence of Jamaica ginger,

insecticides, rat exterminators, aromatic spirits of ammonia, spirits of camphor, sweet spirits of niter, syrup of rhubarb, tincture of arnica and tincture of rhubarb; nor to the sale of the following poisons used in the arts, if properly labeled and recorded as provided by section two of chapter two hundred and seventy: muriatic acid, oxalic acid, nitric acid, sulphuric acid, arsenic, cyanide of potassium, mercury, phosphorus and sulphate of zinc.

1948, 589.

**SECTION 36A. License.** Except as otherwise provided in section thirty-five, no person shall engage in the sale, distribution or delivery, at wholesale, of drugs or medicines within the commonwealth without a license so to do.

1948, 589.  
*SECTION 51: (See page 123A)*

## CHAPTER 114.

### CEMETERIES AND BURIALS.

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#### CEMETERY AND CREMATORY CORPORATIONS.

**SECTION 1. Organization of Cemetery Corporations.** Five or more persons desirous of procuring, establishing and preparing a cemetery, or who are the majority in interest of the proprietors of an existing cemetery, may organize as a corporation not for profit, in the manner provided in chapter one hundred and seventy-nine; but such corporation shall

not sell or impair the right of any proprietor of an existing cemetery.

1841, 114, § 1.	R. L. 78, § 1.	168 Mass. 92.
1852, 56, §§ 1, 2.	G. L. 114, § 1.	218 Mass. 387.
G. S. 28, § 1.	103 Mass. 94.	1936, 319, § 1.
P. S. 82, § 1.		

**SECTION 2. Powers and Duties.** Such corporation shall be subject to chapter one hundred and fifty-five and the first thirteen sections of chapter one hundred and seventy-nine; may take and hold only so much real and personal property as may be necessary for the objects of its organization; may lay out such real property into lots; and may grant and convey the exclusive right or burial in, and of erecting tombs or cenotaphs upon, any lot and of ornamenting the same, upon such terms and conditions and subject to such regulations as it shall prescribe. Section thirty-four of chapter one hundred and fifty-eight shall apply to such corporation.

R. S. 38, § 7.	60, § 7.	146 Mass. 163.
1841, 114, §§ 2-4.	R. L. 78, § 2.	1866, 104.
1852, 56, § 2.	G. L. 114, § 2.	P. S. 82, §§ 2, 5.
G. S. 28, § 2;		

**SECTION 3. Record of Conveyance of Lots.** Every cemetery corporation created by special charter or organized under general laws shall regularly keep books in which it shall enter all conveyances of burial lots within said cemetery and all instruments of contract relating to conveyances of such lots. Such records, and similar records made by such corporation prior to June second, eighteen hundred and eighty-nine, shall have the same effect as if made in the registry of deeds for the county or district where such cemetery is situated, and no other record shall be necessary.

1865, 252, §§ 1, 2.	1883, 142.	R. L. 78, § 3.
P. S. 82, § 6.	1889, 299.	G. L. 114, § 3.

**SECTION 4. Certified Copies as Evidence.** The secretary or clerk of such corporation may give certified copies of all deeds and instruments so recorded, which may be used in evidence in the same manner as copies certified by the register of deeds.

1865, 252, § 3.	R. L. 78, § 4.	G. L. 114, § 4.
P. S. 82, § 7.		

**SECTION 5. Trust Funds.** Such corporation may hold funds in trust and apply the income thereof to

(To be inserted after section 12, on page 121.)

Section 23A. Registration of Physical Therapists. ~~The following words as used in sections twenty-three A to twenty-three P, inclusive, unless the context otherwise requires,~~ shall have the following means:-

(a) "Physical therapy", the treatment of any bodily or mental condition of any person by the use of the physical, chemical and other properties of heat, light, water, electricity, massage and active and passive exercise. The use of roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in said sections.

(b) "Registered physical therapist", a person who practices physical therapy under the prescription, supervision or direction of a person licensed in this commonwealth to practice medicine and surgery.

(c) "Board", the board of registration in medicine established under section ten of chapter thirteen.

1951, 656.

Section 23B. Registration of Physical Therapists. A person who desires to be registered as a physical therapist shall apply to the board, in writing, on an application form prescribed and furnished by the board. He shall include in his application statements under oath, satisfactory to the board, showing that he possesses the qualifications preliminary to examination required by section twenty-three C. He shall pay to the board at the time of filing his application a fee of twenty-five dollars.

1951, 656.

Section 23C. Registration of Physical Therapists. To be eligible for registration by the board as a physical therapist an applicant shall--

- (a) Be at least twenty-one years old.
- (b) Be of good moral character.
- (c) Have been graduated from an approved high school or its equivalent as determined by the board.
- (d) Have been graduated from a school of physical therapy approved for training physical therapists by the appropriate sub-body of the American Medical Association, if any, at the time of his graduation, or if graduated prior to nineteen hundred and thirty six, the

school or course was approved by the American Physical Therapy Association at the time of his graduation.

(e) Pass to the satisfaction of the board an examination conducted by it to determine his fitness for practice as a registered physical therapist.

1951, 656.

Section 23D. Registration of Physical Therapists. The board may, in its discretion, register as a physical therapist, without examination, on the payment of the required fee, an applicant for registration who is a physical therapist registered under the laws of another state, if the requirements for registration of physical therapists in the state in which the applicant was registered were at the date of his registration substantially equal to the requirements set forth in sections twenty-three A to twenty-three P, inclusive, and if such other state accords a similar privilege of registration without examination to holders of certificates as a registered physical therapist under the laws of this commonwealth. At the time of making application, such applicant shall pay the board a fee of ten dollars.

1951, 656.

Section 23E. Registration of Physical Therapists. The board shall examine applicants for registration as physical therapists at such times and places as it may determine. It shall employ three registered physical therapists to aid it in such examinations. The examinations shall embrace the following subjects:- The applied sciences of anatomy, neuro-anatomy, kinesiology, physiology, pathology, psychology, physics; physical therapy, applied to medicine; neurology, orthopedics, pediatrics, psychiatry and surgery; medical ethics and technical procedures in the practice of physical therapy. The type of examination shall be determined by the board.

1951, 656.

Section 23F. Registration of Physical Therapists. The board shall register as a physical therapist each applicant who proves to the satisfaction of the board his fitness for registration under the provisions of sections twenty-three A to twenty-three P, inclusive,



It shall issue to each person registered a certificate of registration, which shall be prima facie evidence of the right of such person to represent himself as a registered physical therapist, subject to the conditions and limitations of said sections.

1951, 656.

**Section 23G. Registration of Physical Therapists.** Every registered physical therapist shall, during January in the year nineteen hundred and fifty-two, and during January in every third year thereafter, apply to the board for a renewal of his registration and pay a fee of five dollars. Any registration that is not so renewed prior to April first in any such year shall automatically lapse on said date. The board may in its discretion revive and extend a lapsed registration on the payment of all unpaid renewal fees.

1951, 656.

**Section 23H. Registration of Physical Therapists.** The board, after due notice and hearing, may refuse to register any applicant, or may refuse to renew the registration of any registered person, and may suspend or revoke the registration of any registered person on the grounds that such applicant.

(a) Is habitually drunk or is addicted to the use of narcotic drugs;

(b) Has been convicted of violating any state or federal narcotic law;

(c) Is guilty of, in the judgement of the board, immoral or unprofessional conduct;

(d) Has been convicted of any crime involving moral turpitude;

(e) Is guilty, in the judgment of the board, of gross negligence in his practice as a physical therapist;

(f) Has obtained or attempted to obtain registration by fraud or material misrepresentation;

(g) Has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane; or

(h) Has treated or undertaken to treat ailments of human beings otherwise than by physical therapy and as authorized by sections twenty-three A to twenty-three P, inclusive, or has undertaken to practice independent of the prescription, direction or supervision of a person licensed in this commonwealth to practice medicine and surgery without limitation,

1951, 656.

**Section 23I. Registration of Physical Therapist.** The board may adopt reasonable rules to carry into effect sections twenty-three A to twenty-three P, inclusive and may amend and revoke such rules at its discretion. The board shall keep a record of its proceedings under said sections and a register of all persons registered by it. The register shall contain the name of every living registrant, his last known place of business and last known place of residence, and the date and number of his registration and certificate as a registered physical therapist. The board shall, during the month of May in every year in which the renewal of registration is required, compile a list of registered physical therapists authorized to practice therapy in the commonwealth, and shall mail a copy of such list to the attorney general and every district attorney in the commonwealth, every chief of police in the commonwealth, the superintendent of every hospital, and every person licensed to practice medicine and surgery in the commonwealth. Any interested person in the commonwealth shall be entitled to obtain a copy of such list upon application to the board and payment of such amount as may be fixed by the board, which amount shall not exceed the cost of the list so furnished.

1951, 656

**Section 23J. Registration of Physical Therapists.** The Board shall investigate every alleged violation of sections twenty-three A to twenty-three P, inclusive, coming to its notice, and shall report to the proper prosecuting officers all cases which in the judgment of the board warrant prosecution. Every police officer shall investigate each alleged violation of said sections which comes to his notice or of which he has received complaint, and he shall apprehend and arrest all violators. It shall be the duty of the attorney general and of the several district attorneys to prosecute violations of said sections.

1951, 656.

**Section 23K. Registration of Physical Therapists.** A person who is not registered as a physical therapist, or whose registration has been suspended or revoked, or whose registration has lapsed and has not been revived, who uses in connection with his name the words or letters "R.P.T.", "Registered Physical Therapist", or any other letters, words or insignia indicating or implying that he is a

registered physical therapist, or who in any other way, orally or in writing, or in print, or by sign, directly or by implication, represents himself as a registered physical therapist shall be punished by a fine of not more than fifty dollars.

1951, 656.

Section 23L. Registration of Physical Therapists. A person who makes a wilfully false oath or affirmation in any case in which an oath or affirmation is required under sections twenty-three A to twenty-three P, inclusive, or who obtains or attempts to obtain registration by any fraudulent representation, shall be punished by a fine of not more than fifty dollars.

1951, 656.

Section 23M. Registration of Physical Therapists. A person registered as a physical therapist shall not treat human ailments by physical therapy or otherwise except under the prescription, supervision or direction of a person licensed to practice medicine and surgery in this commonwealth. Nothing in sections twenty-three A to twenty-three P, inclusive, shall be construed as authorizing a physical therapist, whether registered or not, to practice medicine, osteopathy, chiropractic, or any other form or method of healing. Any per-

son violating the provisions of this section shall be punished by a fine of not more than fifty dollars.

1951, 656

Section 23N. Registration of Physical Therapists. Nothing contained in sections twenty-three A to twenty-three P, inclusive, shall be construed to limit or prevent the practice of physical therapy by any person not registered under said section, if such person does not represent himself to be a registered physical therapist.

1951, 656.

Section 23O. Registration of Physical Therapists. If any provision of sections twenty-three A to twenty-three P, inclusive, or the application of such provision to any person or circumstance shall be held invalid, the remainder of said sections, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

1951, 656.

Section 23P. Registration of Physical Therapists. Sections twenty-three A to twenty-three P, inclusive, shall be known and may be cited as the "Registered Physical Therapists Laws".

1951, 656.





## PUBLIC HEALTH

(See page 96, in place of sections as numbered)

**SECTION 67A. INFANTS PREMATURELY BORN OUTSIDE OF HOSPITAL.** If an infant weighing five and one half pounds or less at birth is born in a hospital, the superintendent or other person in charge of such hospitals shall file immediately with the board of health of the town in which the mother of such infant resides a written report stating the name and location of the hospital, name and address of the parents and the date of delivery, sex and color of child.

If an infant weighing five and one half pounds or less at birth is born in a place other than a hospital, the physician having charge of the birth of such infant shall notify the local board of health as soon as possible after the birth occurs, by telephone, if possible, stating the name of parents and address where infant was born. In addition thereto, such physician shall, within twenty-four hours after such birth, file a written report with the said board in such form and giving such information as the state department of public health shall prescribe.

1937, 332

1939, 246§1

1949, 601§1

**SECTION 67B. TRANSPORTATION OF CERTAIN INFANTS TO HOSPITAL.** Upon request of the attending physician, such board of health or its duly authorized representative, upon receiving the notification referred to in section sixty-seven A, shall forthwith provide for suitable transportation of such infant to a hospital equipped to care for prematurely born infants, unless other provision for such transportation shall have been made.

1937, 332

1949, 601§ 2

**SECTION 67C. WHO LIABLE FOR CHARGES FOR CARE OF INFANT.** Expenses for the care and hospitalization of an infant weighing four and one half pounds or less at birth shall be paid

by the parents or guardian or any other person bound by law to maintain such infant, if he or they be able to pay; otherwise, by the board of health of the town wherein the mother of such infant resides, subject to the provisions relative to notice and reimbursement as hereinafter provided. The board of health in the town in which the mother resides shall be responsible for hospitalization expenses incurred in caring for an infant under this section, within ceiling rates as established by the department; but no expense shall be reimbursed which was incurred more than ten days prior to the receipt by such board of health of a written notice or a telephone request, confirmed in writing, from the superintendent or other person in charge of such hospital. If such infant has a legal settlement within the commonwealth, the board of health of the town so notified shall, within sixty days, forward to the board of health of the town where the infant has a legal settlement, a written notice, and the town of settlement shall reimburse the town originally incurring expense under this chapter for the amounts so expended. If such infant has no legal settlement in the commonwealth, notice shall be sent to the department within sixty days, and such expenses shall be paid by the commonwealth upon the approval of bills therefor. Any payments made hereunder by a town may be recovered in contract from the parent, guardian, or other person bound by law to maintain such infant, if such person is able to pay.

1937, 332

1939, 246§2

1948, 535

1949, 601§3

(See page 110, in place of Section 124)

**SECTION 124. SERVICE OF ORDER FOR ABATEMENT.** Such order shall be in writing, and may be served personally on the owner, occupant or his authorized agent by any person authorized to serve civil process; or a copy of the order may be left at the last and usual place of abode of the owner,



## PUBLIC HEALTH

## Chap. 111)

occupant or agent, if he is known within or without the commonwealth; or a copy of the order may be sent to the owner, occupant or agent by registered mail, return receipt requested, if he is known and within the commonwealth. If the premises are unoccupied and the residence of the owner or agent is unknown or is without the commonwealth, the board may order the notice to be served by posting it on the premises and by advertising it in one or more newspapers.

1849, 211§4	143 Mass. 113.
G.S. 26§9	257 Mass. 580
P.S. 80§22	Op. A.G. (1938) 126
R.L. 75§68	1949, 280
G.L. 111§124	

The notice may be served by a constable, although he is a member of the

board of health and signs the notice. Commonwealth v. Alden, 143 Mass. 113.

(See page 112, after Section 128)

SECTION 128A. SITES OF DEMOLISHED BUILDINGS TO BE PROPERLY FILLED AND LEVELLED. The board of health may adopt and, from time to time, revise regulations requiring that the site of a demolished or removed building or structure be levelled to uniform grade by a sanitary fill proper to prevent rodent harborage and other unsanitary conditions.

1949, 156

the improvement or embellishment of the cemetery or to the care, preservation or embellishment of any lot or its appurtenances.

1874, 190. P. S. 82, § 8.	R. L. 78, § 5. G. L. 114, § 5.	153 Mass. 462. 163 Mass. 509.
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**SECTION 6. Cremation.** Such corporation may cremate bodies of the dead, and may provide necessary buildings and appliances therefor and for the disposition of the ashes of the dead on any land within its cemetery which the department of public health determines is suitable therefor, subject to the provisions of section forty-three D, and such buildings and appliances shall be a part of the cemetery and be dedicated to the burial of the dead, and shall be held by said corporations subject to the duties, and with the privileges and immunities, which they now have by law.

1898, 437, § 1. R. L. 78, § 6.	1914, 792, § 1. 1919, 350, § 96.	1936, 319, § 2. G. L. 114, § 6.
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**SECTION 7. Crematory Corporations.** Five or more persons may form a corporation, not for profit, for the purpose of providing the necessary appliances for the disposal by cremation of the bodies of the dead. Such a corporation shall be formed in the manner prescribed in and subject to section nine of chapter one hundred and fifty-five and sections six and eight to twelve, inclusive, of chapter one hundred and fifty-six, except as follows:

The capital stock, if any, shall not exceed fifty thousand dollars.

The agreement of association of such a corporation having no capital stock may omit the statement of the amount of the capital stock and the par value and number of its shares. The par value of its shares, if any, may be ten or fifty dollars.

1885, 265, § 1. R. L. 78, § 7. 1919, 333, § 9.	1920, 2. G. L. 114, § 7.	1936, 219, § 3. 218 Mass. 387.
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**SECTION 8. Right to hold Real Estate.** Such corporation may acquire and hold in fee, to an amount not exceeding fifty thousand dollars, land necessary and appropriate for its purposes and situated in such place as the department of public health determines to be suitable, subject to the provisions of section forty-three D.

1885, 265, § 2. R. L. 78, § 8.	1914, 792, § 1. 1919, 350, § 96.	G. L. 114, § 8. 1936, 319, § 4.
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**SECTION 9. By-laws and Regulations.** Cemetery and crematory corporations may, subject to the approval of said department, make by-laws and regulations consistent with law for the reception and cremation of bodies of the dead and for the disposition of the ashes thereof, and shall conduct their business in accordance with such regulations as said department shall establish and furnish in writing to the clerk of the corporation. Violation of any such regulation of said department shall be punished by a fine of not less than twenty nor more than five hundred dollars. Such corporations shall not erect, occupy or use any building for cremation until the location and plans thereof with all details of construction have been submitted to and approved by said department or by a person designated by it, subject to the provisions of section forty-three D.

1885, 265, §§ 2, 3. 1898, 437, § 2. R. L. 78, § 9.	1914, 792, § 1. 1919, 350, § 96.	G. L. 114, § 9. 1936, 319, § 5.
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## PUBLIC CEMETERIES.

**SECTION 16. Appropriation for Care of Cemeteries.** Any town may annually appropriate and raise by taxation such sums as may be necessary to care for and keep in good order and to protect by proper fences any or all burial grounds within the town in which ten or more bodies are interred and which are not properly cared for by the owners, and the care and protection of such burial grounds shall be in charge of the cemetery commissioners, if the town has such officers, otherwise in charge of the selectmen.

1915, 156.

G. L. 114, § 16.

## USE OF CEMETERIES.

**SECTION 28. Cemetery Corporations, etc., may hold Lots, etc., in Trust for Preservation.** The owner of any right, title or interest in or to a lot, tomb or monument in any cemetery owned or controlled by any company or association or by any town, may convey or devise the same to such company, association or municipality in trust for the purpose of its preservation as a memorial or as a burial place for the bodies of the owner and his descendants or relatives, or of such other persons as may be specified in the instrument creating the trust, or upon such other trust as may be created by the instrument and accepted by the grantee or devisee; but no such instrument shall be construed to take away the right of the heirs of the owner of a lot or tomb to be buried therein, unless the instrument contains an express provision to that effect. Any such grantee or devisee may accept any such grant, gift, or devise, and if it accepts the same shall forever carry out and observe the terms of the instrument by which the grant, gift or devise was made. After the making of a conveyance or the taking effect of a devise and its acceptance by the cemetery authorities, the grantor of the lot, tomb or monument or of any interest therein, or the heirs and assigns of the grantor or deviser thereof, shall have no control over it except such as may be reserved in the instrument.

1919, 124.

G. L. 114, § 28.

**SECTION 29. Lots, etc., Indivisible but Inheritable.** Lots in cemeteries incorporated under section one, tombs in public cemeteries in cities, and lots and tombs in public cemeteries in towns, shall be held indivisible, and upon the decease of a proprietor of such lot the title thereto shall vest in his heirs at law or devisees, subject to the following limitations and conditions: If he leaves a widow and children, they shall have the possession, care and control of said lot or tomb in common during her life. If he leaves a widow and no children, she shall have possession, care and control during her life. If he leaves children and no widow, they shall have in common the possession, care and control of such lots or tombs during their joint lives, and the survivor of them during his life. The persons in possession, care and control of such lots or tombs may erect a monument and make other permanent improvements thereon. The widow shall have a right of permanent interment for her own body in such



lot or tomb, but it may be removed therefrom to some other family lot or tomb with the consent of her heirs. If two or more persons are entitled to the possession, care and control of such lot or tomb, they shall designate in writing to the clerk of the corporation, or if it is a tomb or lot in a public cemetery, to the board of cemetery commissioners, if any, or to the town clerk, which of their number shall represent the lot; and in default of such designation, the board of trustees or directors of the corporation, the board of cemetery commissioners, if any, or the board of health if such lots or tombs are in public cemeteries in towns, shall enter of record which of said persons shall represent the lot during such default. The widow may release her right in such lot, but no conveyance or devise by any other person shall deprive her of such right.

1841, 114, § 5.  
G. S. 28, § 8.  
1877, 182, § 4.  
P. S. 82, §§ 3, 4.

1885, 302.  
1892, 165, § 1.  
R. L. 78, § 26.  
G. L. 114, § 29.

182 Mass. 175.  
237 Mass. 102.  
1 Op. A. G. 327.

**SECTION 30. Hearing as to Representation.** Before entering of record the name of any person to represent such lot or tomb, the board of cemetery commissioners, if any, or the board of health of a town shall hear the parties entitled to the control thereof at such time and place as it shall have previously appointed by a notice published in a newspaper, if any, of the town; otherwise, by posting a copy in a public place therein.

1892, 165, § 2.  
R. L. 78, § 27.

G. L. 114, § 30.

182 Mass. 175.

**SECTION 31. Family Lot to descend to Heirs.** If in a will no express disposition or other mention is made of a cemetery lot owned by the testator at his decease, and wherein he or any member of his family is buried, the ownership of the lot shall not pass from his lawful heirs by any residuary or other general clause of the will, but shall descend to his heirs, as if he had died intestate.

1914, 492.

294 Mass. 165.

G. L. 114, § 31.

**SECTION 34. Use of Land for New Cemetery or Extension of Old One.** Except in the case of the erection or use of a tomb on private land for the exclusive use of the family of the owner, no land, other than that already so used or appropriated, shall be used for burial, unless by permission of the town or of the mayor and aldermen of the city in which the same lies; but no such permission shall be given until the location of the lands intended for such use has been approved in writing by the board of health of the town where the lands are situated after notice to all persons interested and a hearing; and the board of health, upon approval of the use of any lands either for new cemeteries or for the extension of existing cemeteries, shall include in the records of the said board a description of such lands sufficient for their identification. For every interment in violation of this section in a town in which the notice prescribed in section thirty-seven has been given, the owner of the land so used shall forfeit not less than twenty nor more than one hundred dollars.

1855, 257, §§ 2-4.  
G. S. 28, §§ 5, 11.  
P. S. 82, §§ 18, 21.  
R. L. 78, § 30.

1908, 379, § 1.  
G. L. 114, § 34.  
99 Mass. 281.  
118 Mass. 354.

226 Mass. 5.  
251 Mass. 128.  
315 Mass. 567.

The statute is constitutional and extends to corporations organized for burial purposes. *Wood-lawn's Cemetery v. Everett*, 118 Mass. 355.

The Legislature has power to order the removal of cemeteries for the preservation of the public health. *Sohier et al. v. Trinity Church et al.*, 109 Mass. 1.

**SECTION 35. Plan to be approved by Department of Public Health.** No land other than that so used and appropriated on April tenth, nineteen hundred and eight, shall be used for the purpose of burial if it be so situated that surface water or ground drainage therefrom may enter any stream, pond, reservoir, well, filter gallery or other water used as a source of public water supply, or any tributary of a source so used, or any aqueduct or other works used in connection therewith, until a plan and description of the lands proposed for such use have been submitted to, and approved in writing by the department of public health.

1908, 379, § 2.

G. L. 114, § 35.

**SECTION 36. Appeal from Local Board of Health.** Any person, including those persons in control of any public land, or the officers of any municipality, aggrieved by the action of a board of health in approving the purchase, taking or use of any lands for cemetery purposes may, within sixty days, appeal from the order of said board to the department of public health, and said department may, after a hearing, rescind such order or may modify and amend the same by approving a part of the lands so proposed for such use.

1908, 379, § 3.  
G. L. 114, § 36.

251 Mass. 130.

315 Mass. 570.

**SECTION 37. Regulations by Boards of Health.** Boards of health may make regulations concerning burial grounds and interments within their towns; may impose penalties not exceeding one hundred dollars for a breach thereof; may prohibit the use by undertakers, for the purpose of speculation, of tombs as places of deposit for bodies committed to them for burial; and may close any tomb, burial ground, cemetery or other place of burial within the town for such time as they consider necessary for the protection of the public health. Notice of such regulations shall be given by publishing them in a newspaper, if any, of the town; otherwise, by posting a copy in a public place therein. Such publication shall be notice to all persons.

R. S. 21, §§ 7, 8.  
1855, 257, §§ 5, 6.  
G. S. 28, §§ 6, 7.  
P. S. 82, §§ 19, 20.

1885, 278, § 1.  
R. L. 78, § 31.  
G. L. 114, § 37.  
16 Pick. 121.

8 Cush. 66.  
18 Allen, 546.  
109 Mass. 1.  
6 Op. A. G. 332, 234.

A by-law prohibiting bringing dead bodies into town without the written consent of the selectmen is void. *Austin v. Murray*, 16 Pick. 121.

The board of health of a city may establish a regulation prohibiting any person unless appointed an undertaker or otherwise authorized by the board of health, from moving from any house or other place in the city to any place of burial the body of any deceased person, and making it the duty of undertakers to attend funerals when required, and to collect and pay over the burial fees; and requiring,



## REGISTRATION OF CERTAIN PROFESSIONS AND OCCUPATIONS

Chap. 112)

(See page 122, after Section 36A.)

**SECTION 51. DENTAL HYGIENIST. QUALIFICATION, REGISTRATION, ETC.** Any person of good moral character, nineteen years old or over, who is a graduate of a training school for dental hygienists requiring a course of not less than one academic year and approved by the board, may, upon the payment of twenty dollars, be examined by the board in subjects considered essential by it for a dental hygienist, and, if his examination is satisfactory, shall be registered as a dental hygienist and be given a certificate allowing him to practice dental hygiene.

A dental hygienist may, under the direction of a registered dentist and subject to such rules as may be adopted by the board, perform any or all of the following duties: (1)--remove all tartar,

deposits, accretions and stains from the exposed surfaces of the teeth and directly beneath the free margin of the gums; (2) polish the teeth and fillings therein; (3) record or report to a registered dentist any oral conditions observed; (4) make topical applications of medicinal agents to the teeth and other oral tissues for prophylactic purposes; (5) assist a registered dentist in any phase of operative and surgical procedures in dentistry and in anaesthesia.

An applicant failing to pass a satisfactory examination shall be entitled to one re-examination at any meeting of the board, free of charge, but for each subsequent examination thereafter shall pay ten dollars.

1915, 301 § 11  
1917, 76 § 1

1924, 103  
1949, 576





further, each undertaker to give bonds in the sum of \$200 for the faithful performance of his duties.

The refusal or neglect of a person appointed an undertaker to give the bond required by the regulation would justify the revocation of his appointment without any previous notice to him. *Commonwealth v. Goodrich*, 13 Allen, 546.

**SECTION 38. Closing of Tombs, etc.** Before a tomb, burial ground or cemetery is closed by order of the board of health for more than one month, all persons interested shall have an opportunity to be heard, and personal notice of the time and place of hearing shall be given to at least one owner of the tomb, and to three at least, if there are so many, of the owners of such burial ground or cemetery, and notice shall be published for at least two successive weeks preceding such hearing in two newspapers published in the county.

1855, 257, § 9.  
G. S. 28, § 8.

P. S. 82, § 22.  
R. L. 78, § 32.

G. L. 114, § 38.

**SECTION 39. Appeal from Order of Board.** The owner of a tomb aggrieved by an order of the board of health closing a tomb, burial ground or cemetery may, within six months after the date thereof, appeal therefrom to the superior court, first giving written notice to the board fourteen days before the entry of such appeal; but the order of the board shall remain in force until the appeal has been determined.

1855, 257, § 7.  
G. S. 28, § 9.

P. S. 82, § 23.  
R. L. 78, § 33.

G. L. 114, § 39.

**SECTION 40. Trial. Costs.** Appeals shall be tried before a jury, and if the jury find that the tomb, burial ground or cemetery so closed was not a nuisance or injurious to the public health at the time of the order and that the closing thereof was not necessary for the protection of the public health, the court shall rescind such order so far as it affects such tomb, burial ground or cemetery, and the appellant may recover the costs of the appeal from the town where the tomb, burial ground or cemetery was situated. If the order is sustained, the board of health shall recover double costs, to the use of the town.

1855, 257, § 7.  
G. S. 28, § 10.

P. S. 82, § 24.  
1885, 278, § 2.

R. L. 78, § 34.  
G. L. 114, § 40.

**SECTION 42. Passing through Cemeteries regulated.** Whoever uses as a means of passage from one point to another, not being thereupon at the time for any other purpose, the premises of a cemetery or burial place, in any other parts thereof than the defined ways, paths and walks, shall be punished by a fine of not more than twenty dollars.

1913, 182, §§ 1, 2.

G. L. 114, § 42.

#### MISCELLANEOUS PROVISIONS.

**SECTION 43A. Who may own, Maintain or Operate Cemeteries.** No cemetery established on or after July first, nineteen hundred and thirty-six, shall be owned, maintained or operated except by a municipality or other political subdivision of the commonwealth, a church, a religious or charitable society, or by a cemetery association incorporated as provided in section one, nor shall such a cemetery be maintained or operated for the purpose of private profit

or gain, directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining and operating the same. A cemetery lawfully established prior to said date may continue to be owned, maintained and operated under the form of organization adopted therefor.

1936, 319, § 6.

**SECTION 43B. Forbidden Sales or Conveyances.** The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium, for speculative purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is hereby prohibited, and every such conveyance shall be void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to the provisions of this section shall be subject to the penalty provided by section forty-three N.

1936, 319, § 6.

**SECTION 43C. Disposition of Proceeds of Sales.** The proceeds of the sales of lots and plots in a cemetery shall, except as hereinafter provided, be applied solely to the improvement and maintenance of the cemetery and the avenues, paths and structures situated therein, for the purchase of additional cemetery land, and for the accumulation of a permanent care and improvement fund. If any indebtedness of a fixed amount is incurred in the purchase of lands for such cemetery, or in making any improvement therein, a sum not exceeding fifty per cent of the gross receipts from the sale of burial lots and plots may be applied to the liquidation of such indebtedness. All moneys received from the sale of personal property and surplus real estate of a cemetery shall be applied first to the liquidation of any fixed indebtedness incurred by it on account of the purchase or improvement of the lands dedicated to cemetery purposes, and any residue remaining after the liquidation of such indebtedness shall be deposited in the permanent care and improvement fund of the cemetery. The provisions of this section shall not apply to any cemetery established prior to July first, nineteen hundred and thirty-six, or to any cemetery owned, maintained and operated by a church or religious society.

1936, 319, § 6.

**SECTION 43D. Community Mausoleum, Crematory, etc., to be located within Cemetery.** Every community mausoleum, other than a structure containing crypts erected or controlled by a church or a religious society and used only as a repository for the remains of the clergy or dignitaries of such church or religious society, and every crematory, columbarium or other structure intended to dispose of or hold or contain the bodies or remains of the dead, erected on or after July first, nineteen hundred and thirty-six shall be located only within the limits of a cemetery containing not less than twenty acres, which shall have been in existence and actually used for burial purposes for a period of at least five years immediately preceding the time of the erection thereof.

1936, 319, § 6.



**SECTION 43E. Department of Public Health to Approve Erection of Community Mausoleum, etc.** No community mausoleum, the crypts of which are available to the public for burial purposes, shall be erected without the consent and approval of the department of public health. Before commencing the erection of any such structure, full detailed plans and specifications shall be presented to said department for its approval. Such approval shall be evidenced by a certificate in writing, signed by the proper officer of said department. No community mausoleum or any structure intended to hold or contain the bodies of the dead permanently, which is available to the public for said use, shall be erected or added to, and no building not previously used or intended to be used for the permanent disposition of the human dead shall be altered or changed for such use or used for such purposes, unless constructed of such materials and workmanship as will insure its durability and permanence as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science.

1936, 319, § 6.

**SECTION 43F. Supervision by department of public health.** The department of public health shall have supervisory control over the erection of any such community mausoleum and shall enforce compliance with the approved plans and specifications therefor. Said department shall appoint an inspector, experienced in modern mausoleum construction and engineering science, to supervise the erection of any such mausoleum and said department shall determine the reasonable amount of compensation of said inspector, which compensation shall be paid by the cemetery association or other agency erecting such community mausoleum. No departure from the original plans and specifications shall be permitted, except upon approval of said department evidenced in like manner and form as the approval of the original plans and specifications.

1936, 319, § 6.

**SECTION 43G. Prerequisites to Use of Community Mausoleum, etc.** No community mausoleum, crypt or structure erected as aforesaid shall be used for the purpose of depositing therein the remains of any dead body until such mausoleum, crypt or structure, or a component section thereof, is fully completed, and the permanent care and improvement fund required by section forty-three J has been established.

1936, 319, § 6.

**SECTION 43H. Sale of Crypt in Community Mausoleum, etc.** No crypt in a community mausoleum shall be sold or offered for sale before said structure, or a component section thereof, is fully completed.

1936, 319, § 6.

**SECTION 43I. Removal of Dead Bodies Constituting Menace to Health.** Whenever any mausoleum, vault, crypt or other structure containing one or more dead human bodies shall, in the opinion of the department of public health, become a menace to

public health, and the owner thereof fails to remedy or remove the same to the satisfaction of said department, any court of competent jurisdiction may order the owner of said structure to remove such dead body or bodies for interment in some suitable cemetery at the expense of such owner. If such owner cannot be found, such removal and interment shall be at the expense of the cemetery association or other agency in the cemetery of which such mausoleum, vault, crypt or other structure is situated.

1936, 319, § 6.

**SECTION 43J. Fund for Care of Community Mausoleums to be Established.** Every cemetery association or other agency establishing, maintaining and operating a community mausoleum on or after July first, nineteen hundred and thirty-six, shall create and establish a permanent care and improvement fund, distinct and separate from the permanent care and improvement fund of its cemetery. The fund established under authority of this section shall be created by applying to such fund at least thirty per cent of the proceeds received, in full or in instalments, from the sales of crypts in such mausoleum. The income of such fund shall be devoted to the care, maintenance and improvement of such community mausoleum.

1936, 319, § 6.

**SECTION 43K. Custody, Administration and Investment of Fund.** The treasurer of the cemetery in which such community mausoleum is situated shall be the custodian of the permanent care and improvement fund established therefor as aforesaid and every such fund shall be held, administered and invested in the manner provided by law for funds in savings banks of the commonwealth.

1936, 319, § 6.

**SECTION 43L. Abating or Enjoining Nuisance.** Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to any provision of this chapter shall be a nuisance and may be abated or enjoined as such at the suit of any taxpayer of the commonwealth.

1936, 319, § 6.

**SECTION 43M. Permanent disposition of Dead Bodies or Remains.** Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the commonwealth for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the commonwealth, and the remains of any body after dissection therein, shall be decently buried, entombed in a mausoleum, vault or tomb or cremated within a reasonable time after death. The permanent disposition of such bodies or remains shall be by increment in the earth or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this commonwealth, by deposit in a crypt of a mausoleum, or by cremation. The remains of a human body after cremation may be deposited in a niche of a columbarium or a crypt of a mausoleum, buried or disposed of in any manner not contrary to law. No de-



posit of the bodies or remains of the human dead shall be made in a single chamber, vault or tomb wholly or partly above the natural surface of the ground unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, waterproof and air tight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States government for monuments erected in national cemeteries, of durability sufficient to withstand all conditions of weather.

1936, 319, § 3.

**SECTION 43N. Penalties.** Whoever fails to comply with or violates any provision of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory or columbarium, or to the disposal of dead human bodies, shall, unless another penalty is provided by this chapter, be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than six months, or both.

1936, 319, § 6.

**SECTION 43O. Vested Rights not Affected.** The provisions of this act shall not be construed as affecting any vested rights of any cemetery association or other agency owning, maintaining and operating a cemetery or crematory immediately prior to its effective date. In so far, however, as said provisions do not violate any such vested rights they shall, except as otherwise provided therein, apply to all such cemetery associations or other agencies.

1936, 319, § 6.

#### CREMATION AND BURIAL.

**SECTION 44. Cremation regulated.** The body of a deceased person shall not be cremated within forty-eight hours after his decease unless he died of a contagious or infectious disease, and, if the death occurred within the commonwealth, the body shall not be received or cremated by any corporation authorized to cremate the bodies of the dead until its officers have received the certificate or burial permit required by law before burial, and a certificate from a medical examiner that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary. If the death occurs without the commonwealth, the reception and cremation of the body of a deceased person shall be governed by a by-law or regulation made or approved by the department of public health as provided by section nine.

1885, 265, § 4.  
1898, 437, § 2.

R. L. 78, § 37.  
1907, 188.

G. L. 114, § 44.

**SECTION 45. Burial Permits.** Except as provided in sections forty-four and forty-six, no undertaker or other person shall bury or otherwise dispose of a human body in a town, or remove therefrom a human body which has not been buried, until he has received a permit from the board of health or its

agent appointed to issue such permits, or if there is no such board, from the clerk of the town where the person died; and no undertaker or other person shall exhume a human body and remove it from a town, from one cemetery to another, or from one grave or tomb other than the receiving tomb to another in the same cemetery, until he has received a permit from the board of health or its agent aforesaid or from the clerk of the town where the body is buried. No such permit shall be issued until there shall have been delivered to such board, agent or clerk, as the case may be, a satisfactory written statement containing the facts required by law to be returned and recorded, which shall be accompanied, in case of an original interment, by a satisfactory certificate of the attending physician, if any, as required by law, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if, for sufficient reasons, his certificate cannot be obtained early enough for the purpose, or is insufficient, a physician who is a member of the board of health, or employed by it or by the selectmen for the purpose, shall upon application make the certificate required of the attending physician. If death is caused by violence, the medical examiner shall make such certificate. If such a permit for the removal of a human body, not previously interred, from one town to another within the commonwealth cannot be obtained early enough for the purpose, the certificate of death made as above provided and in the possession of the undertaker desiring to make such removal shall constitute a permit for such removal; provided, that such body shall be returned to the town from which it was removed within thirty-six hours after such removal, unless a permit in the usual form for the removal of such body has been sooner obtained hereunder. If the death certificate contains a recital, as required by section ten of chapter forty-six, that the deceased served in the army, navy or marine corps of the United States in any war in which it has been engaged, such recital shall appear upon the permit. The board of health or its agent, upon receipt of such statement and certificate, shall forthwith countersign it and transmit it to the clerk of the town for registration. The person to whom the permit is so given and the physician certifying the cause of death shall thereafter furnish for registration any other necessary information which can be obtained as to the deceased, or as to the manner or cause of the death, which the clerk or registrar may require.

1878, 174.  
P. S. 32, § 5.  
1888, 306, § 2.  
1897, 437, § 1.  
R. L. 78, § 38.

G. L. 114, § 45.  
1922, 176, § 1.  
1926, 243, § 2.  
1927, 48.

Op. A. G. (1926),  
138.  
1931, 414.  
4 Op. A. G. 406.  
For penalty see § 50.

**SECTION 46. Burial of Bodies brought into Commonwealth.** No undertaker or other person shall bury a human body or the ashes thereof which have been brought into the commonwealth until he has received a permit so to do from the board of health or its agent appointed to issue such permits, or if there is no such board, from the clerk of the town where the body is to be buried or the funeral is to be held, or from a person appointed to have the care of the cemetery or burial ground in which the inter-



ment is made, if a record is kept of the names of all persons buried therein, or from a duly appointed superintendent of burials in such town who keeps a record of interments. Such permit shall not be issued until the undertaker or other person has delivered a certificate to said board, agent, clerk, superintendent or person having such care, giving the name of the deceased, his age as nearly as can be ascertained, the cause of death, the name of the town where he last resided or from which the body was brought, or, if the death occurred at sea, the name of the vessel upon which it occurred, and any other facts required for record which could be obtained with reasonable diligence, including, in case the deceased served in the army, navy or marine corps of the United States in any war in which it has been engaged, a recital to that effect, specifying the war.

The board of health or its agent, or the superintendent or person having such care, shall, upon receipt of such certificate, forthwith countersign and transmit it to the town clerk; and if the deceased was a resident of said town, the clerk shall record the same in the books kept for recording deaths; but if the deceased was at his death a resident of any other town within the commonwealth said clerk shall forthwith forward to the clerk thereof a copy of such certificate, who shall record the same.

1897, 437, § 2.  
R. L. 78, § 39.

G. L. 114, § 46.  
1926, 243, § 8.

For penalty see § 50.

#### SECTION 46A (See page 129A)

**SECTION 47. Certificates Necessary for Burial, etc.** No person having the care of a cemetery, burial ground or crematory shall permit the burial, removal or cremation of a human body until the permit for such burial, removal or cremation has been delivered to him, nor permit the ashes of a human body to be buried therein until there has been delivered to him a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented. Upon the burial, removal, or cremation of a body, the superintendent or other officer in charge of the cemetery or crematory shall indorse upon the coupon accompanying the permit the fact of such burial, removal or cremation, with the date thereof, shall make and preserve in the files of the cemetery or crematory a record of such burial, removal or cremation, including any recital in the burial permit relative to service of the deceased in any war in which the United States has been engaged, and also the location of the grave or other receptacle of the body or ashes of the deceased, and shall forthwith return the coupon to the office issuing the same; provided, that if there is no officer in charge of the cemetery or crematory, such duties shall be performed by the undertaker.

1897, 437, § 3.  
R. L. 78, § 40.  
1920, 321.

G. L. 114, § 47.  
1921, 333.

1926, 243, § 4.  
For penalty see § 50.

**SECTION 48. Same Subject.** An undertaker shall not bury the ashes of a human body until he has re-

ceived from the person having the charge of the crematory a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

1897, 437, § 4.  
R. L. 78, § 41.

G. L. 114, § 48.

For penalty see § 50.

**SECTION 49. Undertakers to be licensed.** The board of health of each town shall annually, on or before May first, license persons to act as funeral directors therein upon such terms and conditions as the board of registration in embalming and funeral directing, established by section twenty-nine of chapter thirteen, shall prescribe. All such licenses shall expire April thirtieth each year, unless sooner suspended or revoked. Such licenses shall be issued only to persons certified to the boards of health by said board of registration, before May first each year, as qualified to be licensed as funeral directors. Any license hereunder may, after a hearing, be revoked by the board of health which issued it for any violation of law, local ordinances or the rules and regulations of said board of health, said board of registration or the state department of public health.

Boards of health shall send to said board of registration, immediately upon the issuance of licenses hereunder, the names and addresses of the persons to whom such licenses were issued.

A person registered and licensed as a funeral director may act as a funeral director in any town; provided, that, unless licensed as a funeral director by the board of health of a town, no person shall establish or maintain in such town a place of business or office or agency, or display in such town any sign indicating that he is licensed therein as an undertaker, funeral director or mortician, or hold himself out in such town as a funeral director without clearly indicating the town wherein he is so licensed.

The board of health of a town shall issue a permit for the continuance therein, under the active supervision of a person licensed as a funeral director in any town, of the business of a funeral director licensed by such board who has died, for the benefit of the estate or persons interested in the estate of the decedent, during such period of time and in such manner and under such conditions as such board may determine.

1872, 275.

P. S. 32, § 6.

1897, 437, § 7.

R. L. 78, § 44.

G. L. 114, § 49.

1926, 242, § 1.

1936, 407, § 4.

1939, 160, § 3.

1941 A. G. 84.

200 Mass. 474.

A regulation made by the board of registration in embalming that persons authorized to issue burial permits should not issue them except to a person who has received a certificate as a registered embalmer, held void in *Wyeth v. Cambridge Board of Health*, 200 Mass. 474.

**SECTION 50. Penalty.** Violations of any of the provisions of sections forty-four to forty-eight, inclusive, shall be punished by a fine of not more than fifty dollars.

1897, 437, § 5.  
R. L. 78, § 42.

G. L. 114, § 50.

1922, 176, § 2.

## CEMETERIES AND BURIALS

Chap. 114.)

(See page 128, after Section 46)

SECTION 46A. BURIAL OR OTHER DISPOSITION OF THE BODIES OF VETERANS. No permit for the burial or other disposition of the body of a deceased veteran, known to be such, as the term veteran is defined in section twenty-one of chapter thirty-one, shall be issued unless and until an affidavit, as hereinafter set forth, shall have been filed with the board of health, or body or person having similar powers and duties, issuing such permit, by the undertaker or other person authorized to make such burial or disposition. Such affidavit shall set forth, as far as is known to the person executing it, the name and last known address of

the deceased, the date and place of his or her birth, the date, place and cause of his or her death, a summary of his or her service record, and a detailed statement of the location of the burial or other disposition of his or her body.

A certified copy of the affidavit shall forthwith be transmitted by such board, body or person to the veteran graves officer, appointed under section nine of chapter one hundred and fifteen, of the city or town of burial or other disposition of the body.

1949, 604





( to be inserted before Chapter 119)

## CHAPTER 118D.

### ASSISTANCE TO PERSONS WHO ARE DISABLED

**Section 1.** The board of public welfare of every town shall give adequate assistance to every needy person resident therein, eighteen years of age or over, who is permanently and totally disabled and has resided in the commonwealth for one year immediately preceding the date of his application for such assistance. Such assistance shall, wherever practicable, be given to such person in his own home or in lodgings or in a boarding home which, for the purposes hereof, shall include any institution providing shelter, care and treatment for such permanently and totally disabled persons; provided, that no such assistance shall be given to any individual who is an inmate of a public institution unless such person is a patient in a public medical institution; and, further provided, that such assistance shall not be given to or in behalf of any individual who is a patient in an institution for tuberculosis

or mental diseases or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. For purposes of this section a public medical institution is an institution, supported in whole or in part by public funds, which is staffed by professional medical and nursing personnel and provides medical care, including nursing and convalescent care, in accordance with accepted standards. In the case of a hospital, sanatorium, convalescent and nursing home, or boarding home for the aged, such institutions shall meet the licensing provisions of the department of public health. In the case of an institution which is not licensed as a hospital, sanatorium, convalescent and nursing home, or boarding home for the aged, the institutions shall meet the standards established for such institutions by the department of public health, authority to establish such standards being hereby given.





CHAPTER 119

(To be inserted in place of Chapter 119 on page 129.)

Section 1. It is hereby declared to be the policy of this commonwealth to direct its efforts, first, to the strengthening and encouragement of family life for the protection and care of children; to assist and encourage the use by any family of all available resources to this end; and to provide substitute care of children only when the family itself or the resources available to the family are unable to provide the necessary care and protection to insure the rights of any child to sound health and normal physical, mental, spiritual and moral development.

The purpose of this chapter is to insure that the children of the commonwealth are protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parent substitutes, and to assure good substitute parental care in the event of the absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children. This chapter shall not apply to a private school furnishing board and lodging to pupils and approved as provided in section one of chapter seventy-six, or to camps conducted for children during the summer months.

1954, 646, s.1

Section 3. The following words and phrases when used in sections one to thirty-nine, inclusive, shall, unless the context otherwise requires, be construed as follows:--

"Department", shall mean the department of public welfare.

"Division", shall mean the division of child guardianship of the department of public welfare.

"Parent", means mother or father, unless specified parent as defined under section one of chapter one hundred and eighteen.

"Advisory Board", means the department advisory board.

"Custody", shall include the following powers:--(1) to determine the child's place of abode, medical care and education; (2) to control visits to the child; (3) to consent to enlistments, marriages and other contracts otherwise requiring parental consent. In the event that the parent or guardian shall object to the carrying out of any power conferred by this paragraph, said parent or guardian may

make application to the committing court and said court shall review and make an order on the matter.

"Evidence", shall be admissible according to the rules of the common law and the General Laws and may include reports to the court by any person who has made an investigation of the facts relating to the welfare of the child and is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children. Such person may file with the court in a proceeding under said sections a report in full of all the facts obtained as a result of such investigation. The person reporting may be called as a witness by any party for examination as to the statements made in the report. Such examination shall be conducted as though it were on cross-examination.

1954, 646, s.1

Section 4. Any person, other than a relative by blood or marriage, who, for hire, gain or reward, receives or has under his care or control any child under sixteen years of age, of whom he is not the legal guardian, for purposes of giving such child a home, or for board or for adoption, shall be deemed to maintain an independent foster home for children, unless such child was placed in his care by the department, or a public or private social agency which has been authorized by the department to place children under sections fourteen to twenty-two, inclusive. Within two days after receiving such a child, such persons shall give written notice to the department of the date and the terms upon which such child was received, with the name, age and birthplace of the child, name and address of its parents, and the name and address and relationship of the person from whom the child was received. Within two days after the discharge or adoption of such child, the person shall give written notice to the department in the form prescribed by the department.

1954, 646, s.1

Section 5. No person shall maintain an independent foster home for children unless such person has been issued a permit therefor by the department. The notice to the department re-



quired under section four shall be deemed to be an application for such a permit. The department shall issue a permit to any person whom it funds suitable to maintain a foster home for children, and may revoke the same upon violation of any provision of this chapter or any of the rules and regulations of the department relative to maintaining an independent foster home or for failure properly to provide for a child in his care; provided however, that such person shall have the right of appeal to a district court from the ruling or decision of said department.

1954, 646, s.1

Section 6. No person other than a parent, as defined in section one of chapter one hundred and eighteen, shall place any child under sixteen years of age of whom he is not the legal guardian in the care or control of any other person not related to such child by blood or marriage for purposes of giving such child a home, or for board, or for adoption. Whenever a parent or legal guardian of such a child places the child under the care or control of another person not related by blood or marriage to the child for hire, gain or reward, written notice to the department shall be given within two days thereafter of the date and terms upon which such child was placed, with the name, age and birthplace of the child, name and address of its parents, and the name and address of the person with whom the child was placed; and, upon request of the department, shall give further information and render such further reports as may be required concerning such child. This section shall not apply to the placement of children by the department or any public or private agency authorized by the department to place children under sections fourteen to twenty-two, inclusive.

1954, 646, s.1

Section 7. A person receiving or placing a child for board, or for giving it a home, or for adoption as described in sections one to six, inclusive, shall give true answers, so far as his knowledge extends, and upon any prosecution, a defendant who relies in defence upon the relationship of any said child to himself shall have the burden of proof thereof.

1954, 646, s.1

Section 8. The department may visit any independent foster home for children and shall visit at least annually any home where two or more unrelated children are boarded for financial consideration. Upon receipt of notice or any information of the placement or reception of a child described in sections one to seven, inclusive, an agent of the department may en-

ter without actual force any building or room where such child is sheltered and maintained, and may investigate the case and make such recommendations as are deemed expedient.

1954, 646, s.1

Section 9. An agent may be authorized by the department to remove such child to its care if in its judgment the welfare of the child or its protection from neglect or abuse so require. An agent who is refused such entry, or who is hindered in the removal of such child, may make complaint, on oath, to a justice of the court having jurisdiction, who may thereupon issue a warrant authorizing him to obtain sufficient aid, and at any reasonable time enter the building designated, and any part thereof, to investigate the treatment and condition of a child found there and to remove such child as herein provided. The department shall take such child temporarily into its care and forthwith notify the child's parent or legal guardian, and shall, upon request, discharge such child to its parent or legal guardian. If the parent or legal guardian is unable or refuses to make suitable provisions for the child, the department shall make lawful provisions for its care under section twenty-three or twenty-four.

1954, 646, s.1

Section 10. The department, upon being authorized by a court of competent jurisdiction and subject to revocation of such authority, may notify any person to whom a permit has been refused, or whose permit has been revoked, or from whose care a child has been removed, that no child of which he is not the legal guardian shall be received or maintained by him even for a temporary period without specific written authorization by the department.

1954, 646, s.1

Section 11. No person shall cause to be published in a newspaper circulated in the commonwealth an advertisement or notice for the placement or reception of a child under sixteen years of age for board, for giving it a home, or for adoption unless such advertisement is placed by the department, a public or private agency authorized by the department under sections fourteen to twenty-two, inclusive, or an independent foster home for children licensed under section five, or unless with the written approval of the department.

1954, 646, s.1

Section 12. The department shall adopt rules and regulations relative to independent foster homes for children. The rules and regulations adopted by the department shall be subject to review and approval by the advisory board and may include, among others, provisions

governing the standards of care for such children; provisions relative to the issuance of permits to maintain foster homes for children and the renewal terms thereof; provisions for exemption of certain placements where, in the opinion of the department, the best interests of the child shall be served; provisions requiring reporting of information by persons who have such children under their care and control; provisions relative to the number of children who may be cared for at any time; and

provisions relative to the standards of health, sanitation, safety and fire prevention, which shall be required in any place where such children are maintained.

1954, 646, s.1

Section 13. Whoever wilfully violates any of the provisions of sections one to twelve, inclusive, shall be punished by a fine of not more than five hundred dollars.

1954, 646, s.1





## CHAPTER 119.

PROTECTION AND CARE OF CHILDREN, AND PROCEEDINGS  
AGAINST THEM.

## SECT. PROTECTION OF CHILDREN.

1. Definition of infant boarding house.
2. Infant boarding house to be licensed.
3. Revocation of license.
4. Records by licensee.
5. Penalty for maintaining unlicensed boarding house.

## PROTECTION OF CHILDREN.

## SECTION 1. Definition of Infant Boarding House.

Whoever for hire, gain or reward has in his custody or control at one time two or more infants, not related to him by blood or marriage, who are under fourteen years of age and unattended by a parent or guardian, for the purpose of providing them with care, food and lodging, except such of said infants as are two years of age or over but under fourteen years of age and have been placed in his custody or control by the department of public welfare of the commonwealth, in this chapter called the department, by any board of public welfare, by the institutions department of Boston or by any charitable corporation organized under the laws of the commonwealth, and except such of said infants as are two years of age or over but under fourteen years of age, are members of the same family and have been placed in his custody and control by any municipal veterans' service department, shall be deemed to maintain a boarding house for infants. This section shall not apply to a private school furnishing board and lodging to pupils and approved as provided in section one of chapter seventy-six, or to camps conducted for children during the summer months.

1889, 416, § 2.	G. L. 119, § 1.	1946, 547, § 1.
1892, 318, § 2.	1941, 629, § 1.	Op. A. G. 1946, 61.
R. L. 88, § 1.		

## SECTION 2. Infant Boarding House to be licensed.

The department may grant licenses to maintain boarding houses for infants. Every application therefor shall first be approved by the board of health of the town where such boarding house is to be maintained. The term of each such license shall be one year and the fee therefor shall be five dollars, except that no fee shall be required of any such boarding house all the infants in which have been placed therein by the department, by any board of public welfare, by the institutions department of Boston or by any charitable corporation organized under the laws of the commonwealth, or by any municipal veterans'

service department, or by any combination of such departments, boards or corporations. Each such license shall state the name of the licensee, the particular premises where the business may be carried on, the maximum number of infants which may be boarded there at one time, and, if required by the department, it shall be posted in a conspicuous place on the licensed premises. No greater number of infants than is authorized by the license shall be boarded at one time on the premises, and no infant shall be kept in a building or place not designated in the license. A record of licenses issued shall be kept by the department, which shall forthwith give notice of the granting of each such license and of its terms to the board of health of the town where the licensee resides. The department and boards of health shall annually, and may, at any time, visit and inspect premises so licensed or designate a person therefor.

1889, 416, § 3.	1919, 350, § 87.	1941, 629, § 2.
1892, 318, §§ 3, 4.	G. L. 119, § 2.	1946, 547, § 2.
R. L. 88, § 2.		

SECTION 3. Revocation of License. The department may revoke such license, and shall note such revocation upon the face of the record thereof. It shall give written notice of such revocation to the licensee by delivering the notice to him in person or by leaving it on the licensed premises.

1889, 416, § 3.	R. L. 88, § 3.	G. L. 119, § 3.
1892, 318, §§ 3, 6.	1919, 350, § 87.	

SECTION 4. Records by Licensee. Every such licensee shall keep a record, in a form prescribed by the department, of every infant received, the date of its reception, the name and address of the person from whom received, the date of its discharge, and the name and address of the person to whom delivered on discharge.

1892, 318, § 5.	G. L. 119, § 4.	259 Mass. 150.
R. L. 88, § 4.		

SECTION 5. Penalty for maintaining Unlicensed Boarding House. Whoever maintains a boarding house for infants, unless licensed thereto by the department, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or both.

1892, 318, § 1.	1919, 350, § 87.	G. L. 119, § 5.
R. L. 88, § 5.		



## CHAPTER 121.

POWERS AND DUTIES OF DEPARTMENT OF PUBLIC WELFARE  
AND MASSACHUSETTS HOSPITAL SCHOOL.

**SECTION 12. Removal of Infected Persons, etc.** The department may, if expedient, remove any person infected with a disease dangerous to the public health, who is maintained or liable to be maintained by the commonwealth, to the Tewksbury state hospital, or may provide such place of reception for such person as is judged best for his accommodation and the safety of the public, which place shall be subject to the regulations of the department, and it shall have the same authority to remove such persons thereto as is conferred upon boards of health by section ninety-five of chapter one hundred and eleven, and any expenses incurred in carrying out this section may be paid from the annual appropriation for expenses in connection with smallpox and other diseases dangerous to the public health.

1904, 395.  
1909, 391.  
1919, 350, § 87.

G. L. 121, § 12.  
1928, 155, § 38.

1941, 351, § 14.  
4 Op. A. G. 474.

**SECTION 13. Admission of Persons affected with Certain Incurable Diseases to the Tewksbury State**

**Hospital.** Any person who has been a resident of the commonwealth for not less than two years and is affected with any incurable disease, except mental defect or leprosy, may be admitted to the Tewksbury State Hospital; provided, that his admission shall be only upon the certificate of the board of health of the town from which he is sent. The department may make rules and regulations for such admission and to facilitate the operation of this section. The expense of the maintenance of such a patient shall be paid by him or by any person or kindred bound by law to maintain him; if he and such person or kindred are unable to pay for his maintenance the town where the patient is found to have a legal settlement shall be liable to the commonwealth for his support, or, if the patient is without settlement in this commonwealth, the expenses of his maintenance shall be paid by the commonwealth.

1919, 304.

G. L. 121, § 13.

1941, 351, § 15.

## CHAPTER 122.

## TEWKSBURY STATE HOSPITAL AND INFIRMARY.

SECT.

16. Removal of sick persons.

17. Smallpox patients.

SECT.

18. Reimbursement to cities and towns for care of needy persons.

**SECTION 16. Removal of Sick Persons, Penalty.** No town officer or agent having the care and oversight of a sick pauper shall remove or attempt to remove him or cause him to be removed to said hospital infirmary unless there is reasonable cause to believe that such removal will not injure or endanger his health; provided, that in case of doubt as to the safety of such removal such officer or agent shall obtain a certificate of a competent physician that at the request of such officer or agent he has examined such pauper, and that in his opinion such pauper can so be removed without injury or danger to his health; and provided, also, that such removal shall be made whenever ordered by the department. A town officer or agent who violates this section or a physician who gives a false certificate hereunder shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than three nor more than twelve months, or both.

1887, 440, §§ 1-3.  
R. L. 85, §§ 10, 11.

1903, 233.  
1911, 104.

1941, 351, § 35.

**SECTION 17. Care of Certain Sick Persons, Penalty.** No town officer shall send to said hospital infirmary any person infected with smallpox or other

disease dangerous to the public health, or, except as provided in the preceding section, any other sick person whose health would be endangered by removal; but all such persons liable to be maintained by the commonwealth shall be supported during their sickness by the town where they are taken sick, and written notice of such sickness shall be given to the department, which may examine the case and, if found expedient, order the removal of the patient; but such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the overseers of the poor or by a person appointed by them by special vote, who shall certify, after personal examination, that in their or his opinion such removal at the time of his application for aid would endanger his health. A town officer who knowingly violates this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

1855, 445, § 2.  
1865, 162, §§ 1, 3.  
1879, 291, § 3.  
P. S. 86, §§ 25, 27.  
1885, 211.

R. L. 85, § 14.  
1911, 194.  
1941, 351, § 36.  
225 Mass. 589.

285 Mass. 415.  
2 Op. A. G. 499.  
Op. A. G.  
(1939) 20.

*SECTION 18 (See page 4131)*

**SECTION 18. Reimbursement to Cities and Towns for Care of Certain Sick Poor, etc.** Reasonable expenses incurred by a town under section seventeen within ten days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be re-

## TEWKSBURY STATE HOSPITAL AND INFIRMARY

Chap. 122)

(See pp. 130-131, in place of Section 18)

**SECTION 18. REIMBURSEMENT TO CITIES AND TOWNS FOR CARE OF CERTAIN SICK POOR, ETC.**

Reasonable expenses incurred by a town under section seventeen within ten days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to said hospital and infirmary shall be reimbursed by the commonwealth. If the department, after investigation, deems it expedient as an economy in expenditure and in the interest of the patient's health, it may authorize reimbursement for aid rendered after the patient has become able to be so removed, and, in its discretion, until the patient is able to be discharged. If the department considers it expedient to order the removal to said institution of a person whose physical condition is such as to require attendance, reasonable expenses incurred for such attendance as directed by the department shall also be reimbursed by the commonwealth. Bills for such support shall not be allowed unless endorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the town treasury, nor unless they are approved by the department or by a person designated by it. There shall be allowed for the support of a person in a hospital such amounts, as are determined to be equivalent of actual

costs to the hospital which renders support and treatment, but in no event to exceed ten dollars per diem. In cases where the commonwealth or any sub-division thereof may be reimbursed from federal funds or funds from any other source in excess of the above amount, the amount so received shall be paid for such support and treatment. In the determination of actual costs, adequate certification must be furnished in accordance with rules and regulations made by the department, authority to make the same being hereby granted. Expenses incurred by a town for tonsil and adenoid operations shall be reimbursed by the commonwealth to an amount not exceeding fifteen dollars in the case of any one such operation. Reimbursement by the commonwealth under the provisions hereof shall be subject to the provisions of section forty-two of chapter one hundred and twenty-one.

1855, 151	2	1926, 241	\$8
445,	\$2	306 Mass.	360
1865, 162	\$2	144 Mass.	64
1869, 12		1942, A. G.	98
1879, 291	\$3	1945, A. G.	26
P. S. 86,	\$26	1 Op. A. G.	420
1885, 211		1936,	378
1891, 153		1941, 351	\$37
1898, 391		1941,	412
R. L. 85,	\$15	1943, 275	\$2
1908, 555		1943,	476
1911, 104		1945,	583
1913, 797	\$1	1947,	618
1917, 210		1948,	546
1919, 350	\$87	1949,	766
G. L. 122	\$18		





moved to said hospital and infirmary shall be reimbursed by the commonwealth. If the department, after investigation, deems it expedient as an economy in expenditure and in the interest of the patient's health, it may authorize reimbursement for aid rendered after the patient has become able to be so removed, and, in its discretion, until the patient is able to be discharged. If the department considers it expedient to order the removal to said institution of a person whose physical condition is such as to require attendance, reasonable expenses incurred for such attendance as directed by the department shall also be reimbursed by the commonwealth. Bills for such support shall not be allowed unless endorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the town treasury, nor unless they are approved by the department or by a person designated by it. There shall be allowed for the support of a person in a hospital such amounts, as are determined to be equivalent of actual costs to the hospital which renders support and treatment, but

in no event to exceed eight dollars per diem. In cases where the commonwealth or any subdivision thereof may be reimbursed from federal funds or funds from any other source in excess of the above amount, the amount so received shall be paid for such support and treatment. In the determination of actual costs adequate certification must be furnished in accordance with rules and regulations made by the department, authority to make the same being hereby granted. Expenses incurred by a town for tonsil and adenoid operations shall be reimbursed by the commonwealth to an amount not exceeding fifteen dollars in the case of any one such operation. Reimbursement by the commonwealth under the provisions hereof shall be subject to the provisions of section forty-two of chapter one hundred and twenty-one.

1855, 151, § 2;	1908, 555.	1945, A. G. 26.
445, § 2.	1911, 104.	1 Op. A. G. 420.
1865, 162, § 2.	1913, 797, § 1.	1936, 378.
1869, 12.	1917, 210.	1941, 351, § 37.
1879, 291, § 3.	1919, 350, § 87.	1941, 412.
P. S. 86, § 26.	G. L. 122, § 18.	1943, 275, § 2.
1885, 211.	1926, 241, § 8.	1943, 476.
1891, 153.	306 Mass. 860.	1945, 558.
1898, 391.	144 Mass. 64.	1947, 618.
R. L. 85, § 15.	1942, A. G. 98.	1948, 546.

## CHAPTER 127.

# OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS. PAROLES AND PARDONS.

## PRISONERS.

**SECTION 16. Physical Examination of Prisoners.** The warden of the state prison, the superintendents of the Massachusetts reformatory, the reformatory for women, the state prison colony and the state farm, and the keepers and masters of jails and houses of correction shall cause a thorough physical examination to be made by a competent physician of each inmate in their respective institutions committed for a term of thirty days' imprisonment or more. In conducting the examination special attention shall be given to determining the presence of communicable diseases, particularly venereal diseases as defined under section 6, chapter 111 and pulmonary tuberculosis.

1918, 58, § 1.	1924, 309, § 1.	1941, 344, § 13.
1919, 199, § 1.	For penalty see § 18.	1948, 129, § 8.
G. L. 127, § 16.	1933, 77, § 4.	7 Op. A. G. 605.

**SECTION 17. Regulations for Examination prescribed by Department of Public Health.** Specifications governing the manner and time of such physical examinations shall be promulgated by the department of public health. Said department shall prescribe the medical records to be kept, shall require such laboratory or other diagnostic aids to be used as in its judgment are expedient, and shall forward to the commissioner statements of the results of all such examinations, together with recommenda-

tions relative thereto. For the purpose of obtaining further information relative to such prisoners the commissioner may cause inquiry to be made of court physicians and psychiatrists, probation officers and district attorneys, who have made examinations or investigations of such prisoners prior to conviction or who have prosecuted them, and such physicians, psychiatrists and probation officers shall furnish to the commissioner when requested all pertinent information in their possession. The commissioner may cause such further inquiry to be made relative to the offences committed by such prisoners and their past history and environment as he may deem necessary. He shall cause records to be made of such examinations and investigations, and shall transmit copies thereof to the office of the board of probation, which shall cause the same to be filed with its office records.

1918, 58, § 2.	1924, 309, § 2.	5 Op. A. G. 464.
1919, 350, § 96.	1929, 179, § 4.	7 Op. A. G. 605.
G. L. 127, § 17.	1933, 77, § 2.	

**SECTION 18. Penalty for Breach of Sections 16 and 17.** Any officer named in section sixteen who neglects or refuses to comply with said section or who violates any rule or regulation of the department of public health made under section seventeen shall forfeit not more than fifty dollars.

1918, 58, § 3.	G. L. 127, § 18.	1933, 77, § 3.
1919, 350, § 96.	1924, 309, § 8.	7 Op. A. G. 605.



## CHAPTER 129.

## LIVESTOCK DISEASE CONTROL.

## SECT.

2. Powers and duties of director, orders, etc.
7. Entry on premises.
8. Hospitals and quarantine.
- 8A. Inoculation Hog Cholera.
- 12A. Compensation by commonwealth in cases where cattle affected with tuberculosis are killed.
15. Appointment of inspector of animals.
16. Penalty for refusal or neglect of town to appoint inspectors. Appointment by director.
17. Oath of inspector; compensation.
18. Duties of inspector.
25. Records of inspectors of animals.
- 26A. Shipping, etc., of dairy cattle regulated.
28. Notice of contagious diseases.
29. Expense of quarantine of animals.
- 31A. Delivery, receipt and use of tuberculin.
32. Use of tuberculin restricted, etc.
33. Increasing the amount of state reimbursement of killing of cattle reacting to tuberculin test.
- 33A. Bovine animals which have reacted to a tuberculin test.
- 33B. Bovine tuberculosis test for all cattle in certain towns.
34. No compensation to violators of regulations.
- 36B. Vaccination of certain cattle to curtail the spread of Bang's disease.
39. Dealers in bovine animals must be licensed.
40. Transportation of bovine animals, vehicle licensed.
41. Persons transporting bovine animals have bill of sale.
42. Tagging of bovine animals, by whom.
43. Penalty.

**SECTION 2. Powers and Duties of Directors, Orders, etc.** The director may make and enforce reasonable orders, rules and regulations relative to the following: the sanitary condition of neat cattle, other ruminants and swine and of places where such animals are kept; the prevention, suppression and extirpation of contagious diseases of domestic animals; the establishing of disease-free herds of cattle and the issuing of certificates in connection therewith; the inspection, examination, quarantine, care and treatment or destruction of domestic animals affected with or which have been exposed to contagious disease, the burial or other disposal of their carcasses, and the cleansing and disinfection of places where contagion exists or has existed. No rules or regulations shall take effect until approved by the governor and council.

1860, 221, § 6.	1912, 608, § 4.	3 Op. A. G. 208.
P. S. 90, § 16.	1913, 329.	5 Op. A. G. 334.
1894, 491, § 38.	1919, 350, §§ 40, 44.	2 Op. A. G. 425, 542.
1899, 408, § 4.	G. L. 129, § 2.	7 Op. A. G. 457.
R. L. 90, § 4.	214 Mass. 19.	8 Op. A. G. 538.
1902, 116, § 3.	260 Mass. 816.	Op. A. G. (1938) 78.
1911, 381, § 1.	1930, 203.	

**SECTION 7. Entry on Premises.** For the purpose of inspecting or examining animals or the places where they are kept, the director, any of his agents or an inspector, duly qualified, may enter any building or part thereof or any enclosure or other place, and may examine or inspect such animals or places. Whoever prevents, obstructs or interferes with such director, agent, inspector or other person having like authority in the performance of any of his duties, or whoever hinders, obstructs or interferes with his making such inspection or examination, or whoever secretes or removes any animal, for the purpose of preventing it from being inspected or examined, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1894, 491, § 13.	1912, 608, § 4.	1920, 2.
1899, 408, § 28.	1913, 329.	G. L. 129, § 7.
R. L. 90, § 28.	1918, 257, § 314.	7 Op. A. G. 457.
1902, 116, § 3.	1919, 5; 350,	
1911, 381, §§ 1, 3.	§§ 40, 44.	

**SECTION 8. Hospitals and Quarantine.** The director may establish hospitals or quarantine stations, with proper accommodations, wherein, under prescribed regulations, animals selected by him may be confined and treated for the purpose of determining the characteristics of a specific contagion and the methods by which it may be disseminated or destroyed, and he may direct inspectors to enforce and carry into effect all regulations made from time to time for that purpose.

1860, 221, § 3.	1899, 408, § 6.	1919, 350, §§ 40, 44.
1878, 24, § 1.	R. L. 90, § 5.	G. L. 129, § 8.
P. S. 90, § 14.	1902, 116, § 8.	7 Op. A. G. 458,
1887, 252, § 11.	1912, 608, § 4.	459, 460.
1894, 491, § 41.	1913, 329.	

**SECTION 8A.** If inoculations against hog cholera are administered by the division to any swine at the request of the owner or keeper thereof the following fees shall be charged:—for less than eleven swine, twenty cents for each swine; for eleven or more but less than fifty-one swine, four dollars; for fifty-one or more but less than one hundred and one swine, five dollars; for one hundred and one or more but less than two hundred and one swine, six dollars; for each additional swine above two hundred, two cents.

1941, 375.

**SECTION 12A. Compensation by the Commonwealth in Cases where Cattle affected with Tuberculosis are killed.** If, under section eleven, any cattle affected with tuberculosis are killed, the full market value thereof at the time of condemnation, not exceeding twenty-five dollars each, shall be paid to the owner by the commonwealth if such animal has been owned by him for a period of not less than sixty days, and has been owned and kept within the commonwealth for six consecutive months, both periods being next prior to its killing, or if it has been inspected within said six months' period and satisfactory proof has been furnished to the director, by certificate or otherwise, that it was free from disease on the date of such inspection, and if the owner has not, in the opinion of the director, by wilful act or neglect, contributed to the spread of tuberculosis.

All expenditures incurred during the current fiscal year under the preceding section shall be paid from item three hundred and four of the general appropriation act of the current year (1924).

1924, 804, § 1.	260 Mass. 818.	Op. A. G. (1930) 137
G. L. 129, § 12A.	1, Op. A. G. 284.	Op. A. G. (1935) 70.

SECTION 13 (see page 141A)

**SECTION 15. Appointment of Inspector of Animals.** The mayor in cities, except Boston, and, except as otherwise provided in section fifteen A, the selectmen in towns shall annually, in March, nominate one or more inspectors of animals, and before April first shall send to the director the name, address and occupation of each nominee. Such nominee shall not be appointed until approved by the director. In cities at least one such inspector shall be a registered veterinarian, except in a city where this requirement

## TEWKSBURY STATE HOSPITAL AND INFIRMARY

Chap. 122)

( See pp. 130- 131, insert in place of Section 13)

**SECTION 18. REIMBURSEMENT TO CITIES AND TOWNS FOR CARE OF CERTAIN SICK POOR, ETC.** Reasonable expenses incurred by a town under section seventeen within ten days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to said hospital and infirmary shall be reimbursed by the Commonwealth. If the department, after investigation, deems it expedient as an economy in expenditure and in the interest of the patient's health, it may authorize reimbursement for aid rendered after the patient has become able to be so removed, and, in its discretion, until the patient is able to be discharged. If the department considers it expedient to order the removal to said institution of a person whose physical condition is such as to require attendance, reasonable expenses incurred for such attendance as directed by the department shall also be reimbursed by the commonwealth. Bills for such support shall not be allowed unless endorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the town treasury, nor unless they are approved by the department or by a person designated by it. There shall be allowed for the support of a person in a hospital such amounts as are determined to be the equivalent of actual costs to the hospital which renders support and treatment, but in no event to exceed twelve dollars per diem. In cases where the commonwealth or any sub-division thereof may be reimbursed from federal funds or funds from any other source in excess of the above amount, the amount so received shall be paid for such support and treatment. In the determination of actual costs, adequate certification must be furnished in accordance with rules and regulations made by the department, authority to make the same being hereby granted.

Expenses incurred by a town for tonsil and adenoid operations shall be reimbursed by the commonwealth to an amount not exceeding fifteen dollars in the case of any one such operation. Reimbursement by the commonwealth under the provisions hereof shall be subject to the provisions of section forty-two of chapter one hundred and twenty-one.

1855, 151s2	1926, 241s3
445, s2	306 Mass. 360
1865, 162s2	1 44 Mass. 64
1869, 12	1942, A. G. 98
1879, 291s3	1945, A. G. 26
P. S. 86, s 26	1 Op. A. G. 420
1885, 211	1936, 378
1891, 153	1941, 351s37
1898, 391	1941, 412
R. L. 85, s15	1943, 275s2
1908, 555	1943, 476
1911, 104	1945, 563
1913, 797s1	1947, 618
1917, 210	1948, 546
1919, 350s37	1949, 766
G. L. 122s18	1951, 489





cannot be complied with by reason of a charter provision relating to the qualifications of appointees to office therein.

In a town which has a board of health and accepts this paragraph, the nomination of such inspectors shall be made by the board of health and not by the selectmen.

1872, 231, § 1.	1902, 116, § 3.	1 Op. A. G. 74.
1875, 29, § 1.	1908, 378.	4 Op. A. G. 146.
1876, 180, § 1.	1911, 143.	6 Op. A. G. 682, 683.
P. S. 58, § 1.	1912, 608, §§ 4, 6.	7 Op. A. G. 416.
1892, 195, § 1; 432.	1913, 329.	Op. A. G. (1927), 93.
1893, 306, § 6.	1919, 350, §§ 40, 44.	Op. A. G. (1928), 69.
1894, 491, § 1.	G. L. 129, § 15.	Op. A. G. 1929.
1899, 408, § 17.	1941, 162.	Op. A. G. (1937)
R. L. 90, § 13.	314 Mass. 273.	38, 90.

and returns shall be made, and may at any time inspect them and make copies thereof.

1894, 491, § 5.	1902, 116, § 3.	1916, 147.
1899, 408, § 19.	1912, 608, § 4.	1919, 350, §§ 40, 44.
R. L. 90, § 15.	1913, 329.	G. L. 129, § 25.

**SECTION 26A. Shipping etc. of dairy cattle regulated.** Whoever ships, drives or transports into the commonwealth cattle to be used for dairy purposes, unless they have been inspected and passed as healthy by a veterinary inspector of the United States Bureau of Animal Industry or a veterinarian of the state of origin authorized by the state and approved by said bureau and are accompanied by a certificate of health approved by the proper livestock officials of the state of origin stating that each such animal six months of age or over was negative to an agglutination blood test for Bang's abortion disease applied in accordance with rules and regulations made by the director and approved by the governor and council, shall be punished by a fine of not more than two hundred dollars.

1924, 495.	1941, 173.	Op. A. G. (1938) 77.
1938, 168.		

**SECTION 16. Penalty for Refusal or Neglect of Town to appoint Inspectors. Appointment by Director.** A town shall, for each refusal or neglect of its officers to comply with the requirements of the preceding section, forfeit not more than five hundred dollars. The director may appoint one or more inspectors for such town, and may remove an inspector who refuses or neglects to be sworn or who, in the opinion of the director, does not properly perform the duties of his office and may appoint another inspector for the residue of his term.

1893, 306, §§ 5, 6.	1912, 608, § 4.	6 Op. A. G. 682.
1894, 491, § 2.	1913, 329.	Op. A. G. (1927), 93.
1899, 408, § 18.	1919, 350, §§ 40, 44.	Op. A. G. (1928) 69.
R. L. 90, § 13.	G. L. 129, § 16.	Op. A. G. (1937) 90.
1902, 116, § 3.		

**SECTION 17. Oath of Inspector; Compensation.** Each inspector shall be sworn to the faithful performance of his official duties, and shall receive from the town for which he is appointed reasonable compensation, if appointed by the town, or such compensation as shall be fixed by the director, but not in excess of five hundred dollars a year, if appointed by the director. Towns having a valuation of less than two and one half million dollars shall be reimbursed by the commonwealth, upon certificate of the selectmen, approved by the director, for one half of such compensation, not exceeding two hundred and fifty dollars for each inspector in any one year.

1872, 231, § 1.	1895, 476.	1913, 329.
1875, 29, § 1.	1899, 408, §§ 17,	1919, 350, §§ 40, 44.
1876, 180, § 1.	18, 30.	G. L. 129, § 17.
P. S. 58, § 1.	R. L. 90, § 14.	314 Mass. 273.
1893, 306, § 5.	1902, 116, § 3.	6 Op. A. G. 682.
1894, 491, § 2.	1912, 608, § 4.	8 Op. A. G. 230, 376.

**SECTION 18. Duties of Inspector.** Each inspector shall comply with and enforce all orders and regulations directed to him by the director. If he refuses or neglects so to do, he shall be punished by a fine of not more than five hundred dollars.

1894, 491, §§ 3, 42.	1902, 116, § 3.	1919, 350, §§ 40, 44.
1899, 408, §§ 21, 31.	1912, 608, § 4.	G. L. 129, § 18.
R. L. 90, § 16.	1913, 329.	8 Op. A. G. 377.

**SECTION 25. Records of Inspectors of Animals.** Each inspector shall keep a record of all inspections made by him and of his doings therein, and shall make regular returns thereof to the division, but such returns need not be retained for more than two years, and may then be destroyed or disposed of by their lawful custodian, and any proceeds received in the course of their disposal shall be paid to the commonwealth. The director shall prescribe the form in which and the times at which such records

**SECTION 28. Notice of Contagious Diseases.** The board of health of a town, any member or agent thereof or any other person who has knowledge of or reason to suspect the existence of any contagious disease among any domestic animals in the commonwealth, or that any domestic animal is affected with a contagious disease, whether such knowledge is obtained by personal examination or otherwise, shall immediately give written notice thereof to the director, or to an inspector for the town where the animal is kept. Whoever fails to give such notice shall be punished by a fine of not more than one hundred dollars. Upon the receipt of such notice by said inspector, he shall proceed as provided in sections twenty-one, twenty-two, twenty-four and twenty-nine. Upon receipt of such notice by the director he shall inspect or cause his agent to inspect such animal, and thereafter shall proceed as provided in section eleven or fourteen, as the case may be.

1860, 219, § 9;	1887, 252, §§ 6, 7.	1908, 515, § 1.
221, § 5.	1894, 491, §§ 29, 30.	1912, 608, §§ 4, 5.
1878, 24.	1899, 408, §§ 14, 15.	1913, 329.
1879, 178.	R. L. 90, § 11.	1919, 350, §§ 40, 44.
P. S. 90, §§ 9, 15.	1902, 116, § 3.	G. L. 129, § 28.
1885, 148, §§ 1, 2.		

**SECTION 29. Expense of Quarantine.** If animals have been quarantined, collected or isolated upon the premises of the owner or of the person in possession of them at the time such quarantine is imposed, the expense thereof shall be paid by such owner or person; but if specific animals have been quarantined or isolated under section eight or twenty-one for more than ten days upon such premises, as suspected of being affected with a contagious disease, and the owner is forbidden to sell any of the product thereof for food, or if animals have been quarantined, collected or isolated on any premises other than those of such owner or person in possession thereof, the expense of such quarantine shall be paid by the commonwealth, except that, in the case of any animal quarantined for biting or scratching a person, the



expense of such quarantine shall be paid by the county in which the injury was inflicted.

1860, 219, § 1.	1894, 491, § 27.	G. L. 129, § 29.
1887, 252, § 1.	R. L. 90, § 21.	1938, 808.
1899, 408, § 26.	P. S. 90, § 1.	168 Mass. 236.
1878, 24, § 1.	1895, 496, § 9.	1 Op. A. G. 372.

**SECTION 31A. Delivery, Receipt and Use of Tuberculin.** Every person who, himself, or by his servant or agent, ships from a place within the commonwealth or otherwise delivers any tuberculin to a person within the commonwealth shall forthwith file with the director a written statement containing the name and address of the person to whom the same was shipped or delivered as aforesaid and the quantity thereof. Every person receiving tuberculin for use in connection with domestic animals shall forthwith after such use file with the director a written statement containing the name and address of the person whose cattle have been tested with such tuberculin and of the person from whom the same was received, together with records of said test upon blanks furnished by the director. Whoever violates any provision of this section shall be punished for the first offence by a fine of not less than twenty-five nor more than one hundred dollars and for a subsequent offence by a fine of not less than fifty nor more than five hundred dollars. This section shall not apply to common carriers, their servants or agents.

1927, 215.

**SECTION 32. Use of Tuberculin restricted, etc.** Tuberculin as a diagnostic agent for the detection of tuberculosis in domestic animals shall be used only upon cattle brought into the commonwealth and upon cattle in quarantine stations at Brighton and Somerville; but it may be used as such diagnostic agent on any animal in any other part of the commonwealth, with the written consent of the owner or person in possession thereof, and upon animals which have been reported as tuberculous upon physical examination by a competent veterinary surgeon, and also as provided in section thirty-three B. Such tests by the use of tuberculin shall be made without charge to citizens of the commonwealth, and in all other cases the expense of such tests shall be paid by the owner of such animals or by the person in possession thereof.

1895, 496, § 14.	R. L. 90, § 31.	260 Mass. 323.
1896, 276.	1903, 322.	7 Op. A. G. 459.
1897, 165.	G. L. 129, § 32.	1927, 385, § 2.
1899, 408, § 42.	1939, 451, § 54.	

**SECTION 33. Increasing the Amount of State Reimbursement for the Killing of Cattle Reacting to the Tuberculin Test.** Except as otherwise provided, a person who has animals tested with tuberculin shall not be entitled to compensation from the commonwealth for any animals which react to the tuberculin test unless they have been tested by the director or qualified veterinarians acting under his authorization and have been owned and kept by the owner applying for the test on the premises where tested for a period of not less than sixty days next prior to the date of said test or have been admitted to the herd on a test approved by the director. The director may prescribe rules and regulations for the inspection of cattle by the application of the

tuberculin test and for the segregation, sale or slaughter of reacting animals; but no inspection by the application of such test shall be made unless an agreement has previously been entered into for such inspection and application with the owner of the animals, except as provided in section thirty-three B. If, in the opinion of the director, any of the animals react to the test and are slaughtered in consequence thereof, the owner shall be reimbursed by the commonwealth in the manner hereinafter provided. The director may appoint persons to make appraisals of reacting cattle in conjunction with the owner or his authorized representative. Such appraisal shall be subject to the rights of arbitration and petition set forth in sections thirty-one; provided, that the award or damages shall be within the limits prescribed by this section. The commonwealth shall, within thirty days after the filing in the office of the director of a valid claim for reimbursement in pursuance of such an appraisal or of an award under section thirty-one, pay to the owner of any animal slaughtered under authority of any rules or regulations made hereunder, or to any mortgagee or assignee designated in writing by said owner, two thirds of the difference between the amount received by the owner for the carcass of the animal and the value of the animal as determined by appraisal as aforesaid; provided, that payment by the commonwealth hereunder shall not exceed one hundred dollars for any grade animal or one hundred and twenty-five dollars for any pure-bred animal; and provided, further, that no payment shall be made for an animal if, since the previous test, the owner or his representative has violated the rules and regulations made hereunder, and provided, further, that the owner or his representative has not unlawfully or improperly obtained or attempted to obtain reimbursement for any animal; and provided, further, that the owner or his representative has not, in the opinion of the director, by wilful act or neglect, contributed to the spread of bovine tuberculosis.

1897, 499.	1919, 350, §§ 40, 44.	1930, 841.
1899, 408, § 43.	G. L. 129, § 33.	1934, 372.
R. L. 90, § 32.	1922, 353, § 8.	1946, 417.
1902, 116, § 3.	1927, 335, § 8.	260 Mass. 311.
1912, 608, § 4.	1928, 332, § 1.	7 Op. A. G. 459, 460.
1913, 329.		

**SECTION 33A. Bovine Animals which have Reacted to a Tuberculin Test.** Any bovine animal which reacts to a tuberculin test shall immediately be tagged for identification by the veterinarian, who has applied such test, by inserting into the external ear of the reacting animal a special metal tag provided by the director. Any person who removes any such tag attached as above provided, or who in any way disposes of any animal which has reacted to a tuberculin test except for the purpose of immediate slaughter, or who neglects or refuses to have slaughtered a reacting animal sold to him for that purpose, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

1922, 187.	260 Mass. 319.	7 Op. A. G. 460.
1924, 156.		

**SECTION 33B. Bovine Tuberculosis Test for all Cattle in Certain Towns.** The director may, upon application to him by not less than seventy-five per



(To be inserted in place of Section 33 on page 134)

Section 33. State Reimbursement for the killing of cattle reacting to the tuberculin test. Except as otherwise provided, a person who has animals tested with tuberculin shall not be entitled to compensation from the commonwealth for any animals which react to the tuberculin test unless they have been tested by the director or qualified veterinarians acting under his authorization and have been owned and kept by the owner applying for the test on the premises where tested for a period of not less than sixty days next prior to the date of said test or have been admitted to the herd on a test approved by the director. The director may prescribe rules and regulations for the inspection of cattle by the application of the tuberculin test and for the segregation, sale or slaughter of reacting animals; but no inspection by the application of such test shall be made unless an agreement has previously been entered into for such inspection and application with the owner of the animals, except as provided in section thirty-three B. If, in the opinion of the director, any of the animals react to the test and are slaughtered in consequence thereof, the owner shall be reimbursed by the commonwealth in the manner hereinafter provided. The director may appoint persons to make appraisals of reacting cattle in conjunction with the owner or his authorized representative. Such appraisal shall be subject to

the rights of arbitration and petition set forth in section thirty-one; provided, that the award or damages shall be within the limits prescribed by this section. The commonwealth shall, within thirty days after the filing in the office of the director of a valid claim for reimbursement in pursuance of such an appraisal or of an award under section thirty-one, pay to the owner of any animal slaughtered under authority of any rules or regulations made hereunder, or to any mortgagee or assignee designated in writing by said owner, two-thirds of the difference between the amount received by the owner for the carcass of the animal and the value of the animal as determined by appraisal as aforesaid; provided, that payment by the commonwealth hereunder shall not exceed two hundred dollars for any grade animal or two hundred and fifty dollars for any pure-bred animal; and provided, further, that no payment shall be made for any animal if, since the previous test, the owner or his representative has violated the rules and regulations made hereunder; and provided, further, that the owner or his representative has not unlawfully or improperly obtained or attempted to obtain reimbursement for any animal; and provided, further, that the owner or his representative has not, in the opinion of the director, by wilful act or neglect, contributed to the spread of bovine tuberculosis.





(To be inserted in place of Section 33B on page 134)

Section 33B. The director may, upon application to him by not less than seventy-five per cent of the cattle owners owning cattle permanently kept in any city or town, or upon like application by the owners of eight-five per cent of such cattle, declare said city or town a quarantine area and may proceed to test by an approved test for brucellosis or by the tuberculin test or otherwise all bovine animals within said area. Whenever not less than eighty-five per cent of the cattle permanently kept in the commonwealth are being tested for brucellosis or bovine tuberculosis under the supervision of the director or of the appropriate federal officials, the director may declare the entire commonwealth to be a quarantine area and may proceed to test by an approved test for brucellosis or by the tuberculin test or otherwise

all bovine animals within the commonwealth. If the director finds and declares that such a city or town or the commonwealth, as the case may be, is substantially free from brucellosis or bovine tuberculosis, he may proclaim it to constitute a modified accredited area and may prescribe rules and regulations, subject to the approval of the governor and council, prohibiting the shipment or transportation into the same of any bovine animals without a permit and health certificate issued by the director or some officer designated by the director for the purpose. Whoever violates the terms and conditions of any such quarantine or any such rule or regulation shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

1954, 647, s.1

Note: Effective date - January 1, 1958





(To be inserted in place of Section 36B on page 135.

Section 36B. The director shall cause all calves to be vaccinated against brucellosis, commonly known as Bang's disease, when they are between the ages of four and eight months, except calves in those herds under the state and federal co-operative herd test plan, also known as the test and slaughter method, which calves need not be vaccinated unless the owner desires. Calves shall be vaccinated by an approved licensed veterinarian designated by the director and only with vaccine produced at establishments licensed under the Federal Virus-Serum-Toxin Act, or at establishments in the commonwealth approved by the director and the expense thereof shall be borne by the commonwealth. Such service shall be rendered not more than three times in any calendar year to the same owner. The director shall make the necessary rules for the handling of the vaccine and the method of vaccination. Any person refusing to have his calves vaccinated shall not be permitted to move any of his cattle from his premises except for slaughter, unless such cattle react negatively to an approved blood test for brucellosis. Each veterinarian shall make a report of all animals vaccinated by him on forms furnished by the director. The commonwealth shall not be liable for any damages incurred or alleged to have been incurred by the use of any vaccine. Whenever any livestock are tested for brucellosis and determined to react positively to such tests, or are vaccinated against brucellosis, the owner of the livestock shall cause them to be permanently identified in accordance with regulations prescribed by the director. It shall be unlawful for any person to transport or offer for transportation any unvaccinated bovine animal over six months of age, and any vaccinated bovine animal over thirty months of age, that has been tested for brucellosis and has reacted positively to such tests, except (a) livestock moved under permit issued by the director to places where state or federal livestock disease-control inspection is maintained for immediate slaughter; or (b) livestock owned by farmers and moved under same ownership identified pursuant to this act and moved under permit issued by the director only to a herd in which brucellosis has been determined by the director to exist.

Any person, firm or corporation who buys, sells or transports an animal known to be positive to an approved test for brucellosis, except animals under thirty months of age which

were vaccinated between the ages of four and eight months and accompanied by an official record of vaccination, or except unvaccinated animals less than six months of age, or except animals for immediate slaughter, or except animals moving under clause (b) shall be fined not more than two hundred dollars for each animal bought, sold, or transported.

1954, 647, s.2

Section 36D. No person shall transport or offer for transportation, or buy or sell, cattle, except for immediate slaughter unless such cattle either (1) have been tested for brucellosis by prescribed methods within thirty days immediately prior to date of buying, selling or transporting and found negative in the latest of such tests; or (2) originate in a certified brucellosis-free herd at time of sale or offer for transport; or (3) are under thirty months of age and have been officially vaccinated between four and eight months of age; or (4) are under six months of age.

1954, 647, s.3

Section 36E. No person shall import into the commonwealth livestock over six months of age without an official certificate of vaccination stating such livestock to have been officially vaccinated for brucellosis between four and eight months of age.

1954, 647, s.3

Note: Effective date on Sections 36D and 36E is January 1, 1960.





cent of the cattle owners owning cattle permanently kept in any city or town, or upon like application by the owners of eighty-five per cent of such cattle, declare said city or town a quarantine area and may proceed to test by the tuberculin test or otherwise all bovine animals within said area. Whenever not less than eighty-five per cent of the cattle permanently kept in the commonwealth are being tested for bovine tuberculosis under the supervision of the director or of the appropriate federal officials, the director may declare the entire commonwealth to be a quarantine area and may proceed to test by the tuberculin test or otherwise all bovine animals within the commonwealth. If the director finds and declares that said city or town or the commonwealth, as the case may be, is substantially free from bovine tuberculosis, he may proclaim it to constitute a modified accredited area and may prescribe rules and regulations, subject to the approval of the governor and council, prohibiting the shipment or transportation into the same of any bovine animals without a permit and health certificate issued by the director or some officer designated by the director for the purpose. Whoever violates the terms and conditions of any such quarantine or any such rule or regulation shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

1927, 835, § 1.

1934, 96.

**SECTION 34. No Compensation to Violators of Regulations.** No compensation shall be allowed by the commonwealth to an owner of condemned cattle who has failed to comply with the reasonable regulations of the director relative to cleanliness, ventilation, light, disinfection and water supply. An owner of cattle who refuses to comply with any such regulation shall be punished by a fine of not more than fifty dollars.

1899, 408, § 44.  
R. L. 90, § 38.

G. L. 129, § 34.

See also 1929, 197.

**SECTION 36B. Vaccination of certain cattle to curtail the spread of Bang's disease.** For the purpose of preventing Bang's disease, the director or his agent may vaccinate cattle with the approval of the owner thereof. Said director may, with the approval of the governor and council, make such rules and regulations as may be necessary to carry out the purposes of this section.

1938, 814.

1943, 56.

**SECTION 39. Dealers in Bovine Animals Must be Licensed.** Every person engaging in the business of dealing in bovine animals shall obtain a license therefor from the director, the fee for which shall be five dollars, and such license shall expire on November thirtieth, following the date of issuance, unless sooner revoked. The director, subject to the approval of the commissioner of agriculture and the governor and council, may make rules and regulations governing the issuance and revocation of such licenses and the conduct of the businesses so li-

censed and relative to the maintenance of premises, buildings and conveyances, the health of bovine animals and the method and time of inspection and checking of said animals.

1941, 607, § 1.

**SECTION 40. Transportation of Bovine Animals, Vehicle Licensed.** Each vehicle used for the transportation of bovine animals by any person engaged in the business of dealing in such animals, when operated on any way in the commonwealth, shall bear a metal license plate, attached to the side of the body of the vehicle to the left of the person operating or driving the same, such plate to be furnished by the director upon payment of a fee of fifty cents. Said plate shall be valid for the term for which the license is granted, but shall be returned to the director on revocation of said license.

1941, 607, § 1.

1946, 416, § 1.

**SECTION 41. Persons Transporting Bovine Animals have Bill of Sale.** All persons who transport bovine animals upon any public way in connection with the purchase or sale thereof, shall have in their possession a bill of sale or memorandum signed by the owner or vendor of such animals, containing the address of such owner or vendor, the date of purchase or sale, the number of animals, breed, eartag number or other means of identification of each animal.

Any person transporting bovine animals shall on demand exhibit such bill of sale or memorandum to any officer qualified to serve criminal process.

No person shall accept any bovine animal over six months of age which has been transported over any such way unless accompanied by such bill of sale or memorandum. The person accepting such animals shall endorse the bill of sale or memorandum in such manner as will signify his acceptance of each animal.

This section shall not apply to such licensees under section thirty-nine as are exempted from the provisions hereof by the director, by rules or regulations made under the authority of said section thirty-nine.

1941, 607, § 1.

**SECTION 42. Tagging of Bovine Animals, by Whom.** No person, other than a licensed veterinarian, shall tag a bovine animal with a state or federal identification tag.

1941, 607, § 1.

**SECTION 43. Penalty.** Whoever violates any provision of sections thirty-nine to forty-two, inclusive, or of any rule or regulation made under section thirty-nine, shall be punished for a first offence by a fine of not more than one hundred dollars and for any subsequent offence by a fine of not more than five hundred dollars, or by imprisonment for not more than two and one half years, or both.

1941, 607, § 1.

1946, 416, § 2.



## CHAPTER 130.

## MARINE FISH AND FISHERIES.

SECT. MARINE FISH AND FISHERIES.  
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*SECTION 2 (See page 141A)*

## POLLUTION OF COASTAL WATERS.

*see green sheet*

**SECTION 22. Prohibition or regulation of pollution.** If the director determines that any marine fisheries of the commonwealth are of sufficient value to warrant the prohibition or regulation of the discharge or escape of sawdust, shavings, garbage, ashes, acids, oil, sewage, dyestuffs, or other waste material from any sawmill, manufacturing or mechanical plant, or dwelling house, stable or other building, which may, directly or indirectly, materially injure such fisheries, he shall by a written order sent by mail to or served upon the owner or tenant thereof prohibit or regulate the discharge or escape therefrom of any or all such injurious substances into the coastal waters. Such order shall take effect in ten days after its date and may be revoked or modified by the director at any time. Before any such order is made the director shall, after reasonable notice to all parties in interest, give a public hearing in the county where the sawmill, manufacturing or mechanical plant, dwelling house, stable or other building to be affected by the order is located, at which hearing any person shall be heard. Upon petition of any party aggrieved by such order, filed within six months after its date, the superior court may, in equity, after such notice, as it deems sufficient, hear all interested parties, and annul, alter or affirm the order. If such petition is filed by the party aggrieved within ten days after the date of said order, said order shall not take effect, unless such petition shall be dismissed, until altered or affirmed as aforesaid. Whoever, in violation of any order of the director, of which such per-

son has had due notice hereunder and which has taken effect, or in violation of any order of said court made hereunder, discharges from such plant or building under his control any of the aforesaid materials, the discharge of which therefrom is forbidden by such order, or suffers or permits the same to be discharged or to escape from such plant or building, into any coastal waters, shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not more than one year or both.

1941, 598, § 22.

**SECTION 23. Penalty.** Except in case of emergency imperilling life or property or of unavoidable accident, whoever from any sources other than those designated in section twenty-two puts, throws, discharges or suffers or permits to be discharged or to escape into any coastal waters, any oil, or any poisonous or other substance, whether simple, mixed or compound, which may directly or indirectly materially injure the fish, fish spawn or seed therein, or takes any such fish by such means, or whoever kills or destroys fish in such waters by the use of dynamite or other explosives, or takes any such fish in such waters by such means, or explodes dynamite or other explosive in such waters, shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not more than one year or both. This section shall not apply to operations of the United States or the commonwealth, or of a political subdivision thereof, nor to operations authorized or permitted thereby, nor to the use of explosives for raising the body of a drowned person.

1941, 598, § 23.

**SECTION 24. Double damages for causing damage to fisheries.** Whoever, contrary to any provision of section twenty-two or twenty-three, himself, or by his agent or servant, does, or allows or suffers to be done, any act causing damage to the fisheries therein named shall be liable in tort, in twice the amount of damage thereby done, to the city or town wherein such damage occurs on account of any injury to the public fisheries within its limits, and to any person having fishery rights therein on account of any injury to his private fisheries rights.

1941, 598, § 24.

**SECTION 25. Discharge of sewage regulated.** The entrance or discharge into the coastal waters, or the tributaries of such waters, of sewage or any other substance which might be injurious to the public health or might tend to contaminate any shellfish areas or shellfish therein which may be determined by the director to be of commercial value, or injuriously affect the fisheries therein, is hereby prohibited; provided, that this section shall not be deemed to interfere with the exercise of any right of drainage which had been approved by the department of public health prior to January first, nineteen hundred and forty-two, or with any drainage

## LIVESTOCK DISEASE CONTROL

### CHAP. 129

(To be inserted in place of section 36B, on page 135.)

Section 36B. Vaccination of certain cattle to curtail the spread of Bang's disease. The director shall cause all calves to be vaccinated against brucellosis, commonly known as Bang's diseases when they are between the ages of four and eight months, except calves in those herds under the state and federal co-operative herd test plan, also known as the test and slaughter method, which calves need not be vaccinated unless the owner desires. Calves shall be vaccinated by an approved licensed veterinarian designated by the director, and the expense thereof shall be borne by the commonwealth. Such service shall be rendered not more than three times in any calendar year to the same owner. The director shall make the necessary rules for the handling of the vaccine and the method of vaccination. Any person refusing to have his calves vaccinated shall not be permitted to move any of his cattle from his premises except for slaughter, unless

such cattle react negatively to an approved blood test for brucellosis. Each veterinarian shall make a report of all animals vaccinated by him on forms furnished by the director. The commonwealth shall not be liable for any damages incurred or alleged to have been incurred by the use of any vaccine.

Any person, firm or corporation who buys, sells or transports an animal known to be positive to the blood test for brucellosis, except animals under thirty months of age which were vaccinated between the ages of four and eight months and accompanied by an official record of vaccination, or except unvaccinated animals less than six months of age, or except animals for immediate slaughter, shall be fined not more than two hundred dollars for each animal bought, sold or transported.

1938, 314.

1943, 56.

1952, 518.





(To be inserted in place of section 22, on page 136.)

Section 22. Prohibition or Regulation of Pollution. If the commissioner determines that any marine fisheries of the commonwealth are of sufficient value to warrant the prohibition or regulation of the discharge or escape of sawdust, shavings, garbage, ashes, acids, oil, sewage, dyestuffs, or other waste material from any saw mill, manufacturing or mechanical plant, or dwelling house, stable or other building, which may, directly or indirectly, materially injure such fisheries, he shall thereupon give written notice of such determination to the commissioner of public health. Upon receipt of such notice, the commissioner of public health, after giving reasonable notice of a public hearing to all parties interested, including the commissioner of conservation, shall hold such hearing in the county where the saw mill, manufacturing or mechanical plant, dwelling house, stable or other building is located. At such hearing, any person shall be heard. After such hearing, the commissioner of public health, if he determines that the said discharge or escape should be prohibited or regulated to preserve the value of said marine fisheries, shall by written notice sent by mail to or served upon the owner or tenant of the mill, plant, house or other building affected, prohibit or regulate the discharge or escape therefrom of any or all such injurious substances into the coastal

waters. Such order shall take effect ten days from the date of the order and may be revoked or modified by the commissioner of public health at any time after he has consulted with respect to such revocation or modification with the commissioner of conservation or the director of the division of marine fisheries. Upon petition of any party aggrieved by the order of the commissioner of public health, which petition must be filed within six months after the date of such order, the superior court may, in equity, after such notice as it deems sufficient, hear all interested parties and may annul, alter or affirm the order. If such petition is filed by the party aggrieved within ten days of the date of said order, said order shall not take effect, unless such petition shall be dismissed, until altered or affirmed as aforesaid. Whoever, in violation of any order made pursuant to this section, of which such person has had due notice and which has taken effect, discharges from such plant or building under his control any of the aforesaid materials, the discharge of which therefrom is forbidden by such order, or suffers or permits the same to be discharged or to escape from such plant or building into any coastal waters, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not more than one year, or both.

1941, 596, s 22.

1952, 130.





GENERAL PUBLIC HEALTH LAWS

CHAP. 130

(To be inserted after Section 27 on Page 127)

SECTION 40. No person, either as principal agent or employee, shall between December first and the following March thirty-first, both dates inclusive, take or catch edible crabs, by the use of traps or otherwise, from the coastal waters. Violation of the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

1954, 248.





thereafter approved by said department; provided, that before granting such new approval the commissioner of public health shall have consulted with the director as to the value of the marine fisheries involved.

1941, 598, § 25.

**SECTION 26. Jurisdiction of courts.** The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall have jurisdiction in equity to enforce sections twenty-two, twenty-three, twenty-four and twenty-five. Proceedings to enforce the same may be instituted and prosecuted by the attorney general at the request of the commissioner.

1941, 598, § 26.

**SECTION 27. Penalty.** Whoever, contrary to section twenty-five permits the entrance or discharge into or on any part of said coastal waters, or the tributaries of such waters, of sewage or any other substance injurious to the public health or tending to contaminate any shellfish area or shellfish therein, or injuriously to affect the fisheries therein, shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not more than one year or both and shall be liable in tort, in twice the amount of damage thereby done, to the city or town wherein such damage occurs, on account of any injury to the public fisheries within its limits, and to the owners or lessees of any private rights therein, on account of any injury to their private fishery rights. *See green sheet*

**SECTION 43** *(See page 141A)*

1941, 598, § 27.

**SECTION 44. Sale, etc., of short lobsters regulated.** Whoever sells, or offers for sale, or has in possession for a period longer than is necessary for measuring or for any purpose other than legally disposing of the same, a lobster measuring less than three and one eighth inches in length, alive or dead, cooked or uncooked, measured from the rear of either eye socket along a line parallel to the center line of the body shell to the rear end of the body shell, shall be punished by a fine of not less than five nor more than ten dollars for every such lobster, and such lobster shall be seized and forfeited, and shall be disposed of by the director to the best interests of the commonwealth; and in all prosecutions under this section any mutilation of any lobster which affects its measurement as aforesaid shall be prima facie evidence that the lobster was or is less than the required length. This section shall not apply to common carriers having lobsters in possession for the purpose of transportation. *See green sheet*

1941, 598, § 44.

**SECTION 45. Use of dead lobsters regulated.** Whoever cooks, buys, sells, offers or exposes for sale, gives away or knowingly delivers, transports, ships, or receives for food purposes any lobster, or similar species of crustacea, or any part thereof, which is uncooked and dead, or which was cooked after it was dead shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment for not less than ten nor more than sixty days, or both.

1941, 598, § 45.

**SECTION 46. Sale, etc., of lobster and crab meat regulated.** No person shall buy, sell, expose for sale,

give away, deliver, transport, ship, carry or have in his possession any lobster meat or crab meat after the same has been taken from the shell, except as hereinafter provided. Any lobster meat or crab meat unlawfully sold, given away, shipped, bought, transported or possessed shall be liable to seizure and may be confiscated. The foregoing shall not apply to such lobster meat or crab meat in the possession of a common carrier for transportation and which is marked as provided in section forty-seven or of which it has no notice; nor to canned lobster meat or crab meat when certified, to the satisfaction of the department of public health, by the board of health or a body having similar powers of the municipality or other governmental unit, where canned, to have been in suitable condition for human consumption when canned, and to have been canned under healthful conditions, and so as to insure the continuance, until use, of such condition; nor to such meat sold for food by a licensed victualler if such meat has been obtained from a dealer holding permit as hereinafter provided; nor to such meat removed from the shell on the premises where it is to be eaten; nor to such meat removed from the shell by a wholesale or retail dealer in lobster, or edible crabs, at his regular place of business therefor if said dealer has a written permit from the director for the sale and delivery of such lobster or crab meat and if such meat is so removed or sold under such conditions and regulations as the director may prescribe, and if the premises where such meat is so removed or sold are at all reasonable times open to the inspection of the director, coastal wardens, deputy coastal wardens and fish inspectors. No permit shall be required for the resale of such meat so long as it remains in the original unbroken package; provided that such package is clearly labeled with the name of the permittee together with the words "lobster meat removed under permit No. \_\_\_\_\_", followed by the number of the permit under which said lobster meat was removed. Such a permit may be granted upon written application to the director and the payment of a fee of ten dollars, shall expire on December thirty-first next succeeding the date of issue, and may be revoked by the director for the violation by the holder thereof of any provision of this chapter. No rule or regulation as to sanitary conditions made by the director under authority of this section shall be effective until approved by the department of public health.

1941, 598, § 46.

**SECTION 47. Barrels, etc., to be marked "Lobsters" or "Lobster Meat".** All barrels, boxes or other containers containing lobsters, or lobster meat after the same has been taken from the shell, shall, before being delivered to any carrier, be marked by the shipper in a plain and legible manner on the outside thereof "Lobster" or "Lobster Meat", as the case may be, in capital letters at least one inch in length, together with the full name and address of the shipper, and, in the case of such lobster meat, also with the words, "removed under permit No. \_\_\_\_\_", followed by the number of the permit under which the same was taken from the shell; and, unless in barrels, boxes or other containers so marked, no lobster or lobster meat shall be transported. Any such bar-



rels, boxes or other containers delivered to or transported by any carrier without being marked as above required, and the lobsters or lobster meat therein, shall be seized and forfeited. Violation of any provision of this section shall be punished by a fine of not less than ten nor more than fifty dollars. This section and section forty-nine shall not apply to lobsters or lobster meat passing through the commonwealth under authority of the laws of the United States.

1941, 598, § 47.

**SECTION 48. Disposal of lobsters, etc., seized in unmarked containers.** In case of seizure by any authorized officer of any lobsters or lobster meat contained in any barrel, box or other container which is not marked as provided in section forty-seven, or of any lobster measuring less than the length prescribed by section forty-four, such lobsters as are alive and measure less than such prescribed length shall be liberated by the director, and all other such lobsters and all such lobster meat found in such barrel, box or other container shall be held and disposed of as provided in section fifty.

1941, 598, § 48.

**SECTION 49. Liability of carrier.** Any carrier who knowingly receives or carries from place to place any lobster or lobster meat in barrels, boxes or other containers not marked as provided in section forty-seven shall be punished by a fine of not more than fifty dollars.

1941, 598, § 49.

**SECTION 50. Forfeiture or liberation of seized lobsters, etc.** When any lobster or lobster meat is seized for the violation of any provision of section forty-seven, the officer making the seizure shall immediately notify the shipper thereof, if known, and shall proceed to enforce the forfeiture of such lobsters as he is not required to liberate, or of such lobster meat, in accordance with section twelve.

1941, 598, § 50.

**SECTION 51. Sale of native lobsters regulated.** No person shall sell, or represent for the purpose of sale, any lobster as a native lobster unless the same shall have been originally caught or taken in the coastal waters; nor shall any person so sell, or represent for the purpose of sale, any crustacean as a lobster unless the same is of the species known as *Homarus americanus*; nor shall any person so sell, or represent for the purpose of sale, any meat as lobster meat unless such meat is wholly from crustaceans of such species. Violation of any provision of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

1941, 598, § 51.

*see green sheet*

#### SHELLFISH IN CONTAMINATED AREAS.

**SECTION 74. Determination of contaminated areas.** The department of public health shall examine from time to time, or upon the request of the director, the coastal waters and flats of the commonwealth and samples of shellfish therein or thereon in order to determine what areas thereof are so contaminated that shellfish obtained therefrom are unfit for food and dangerous to the public health. If, after such examination, said department determines

that such contamination exists, it shall, by written order promulgate definite bounds of the area or areas so determined to be contaminated. Before such determination shall be in effect, said department shall

(1) Publish the results of its examination and its determination thereto in a newspaper published in each city and town in which or adjacent to which any such contaminated area is situated.

(2) Shall file in the office of the clerk of every such city and town the results of such examination and such determination,

(3) Shall cause to be posted at points on or near every such area a description thereof, specifying said bounds and a statement that such area is contaminated.

(4) Shall notify the director of its determination by filing with him properly authenticated copies, certified by the secretary of state, of its examination, determination, publication, filing and posting. Whenever, as a result of a subsequent examination of an area or areas determined by said department to be contaminated, it determines that the shellfish in such area or areas are safe to use as food, notice of such determination shall be published immediately, and the director notified thereof. The record of any examination hereunder and the bacteriological counts made therein shall be subject to inspection upon request. This section shall not apply to scallops.

1941, 598 § 44.

1945, 99, § 1.

**SECTION 75. Purification of shellfish from contaminated areas.** The director may grant, and may revoke written permits for the digging or taking of shellfish from an area determined under section seventy-four or corresponding provisions of earlier laws to be contaminated while such determination is in force, every such permit to be upon the express condition, which shall be set forth therein, that all shellfish dug or taken from the area or areas covered by such permit by the holder thereof shall, before being used or disposed of for consumption as food, be purified at a plant approved in writing by the commissioner of public health and upon such further conditions and regulations as will, in the opinion of the director, most effectively prevent the use of said shellfish as food until so purified. For the purpose of this paragraph the director, upon receipt of the proper fees, may issue the following classes of permits:—a master digger's permit for an individual who digs or takes shellfish from such areas for such purification; a digger's permit for an individual who digs shellfish for the holder of a master digger's permit; and a bait permit for an individual who digs and takes shellfish from such areas for bait purposes only; provided, that no person shall be eligible for a bait permit hereunder who has a digger's permit or who sells shellfish for food purposes.

Whoever, without a permit as provided in this section or contrary to the provisions of such permit digs or takes shellfish for any purpose from any area determined under section seventy-four or under corresponding provisions of earlier laws to be contaminated, while such determination is in force, or shall knowingly transport or cause to be transported or shall have in possession shellfish so dug or taken, or makes use of such a permit after its revocation or

(To be inserted in place of Section 74, on page 138.)

Section 74. The department of public health shall examine from time to time as conditions may require, or upon the request of the director, the mayor or city manager of a city, or the selectmen or town manager of a town, but not more frequently than once in two years, the coastal waters and flats of the commonwealth and samples of shellfish therein or thereon in order to determine what areas thereof are so contaminated that shellfish obtained therefrom are unfit for food and dangerous to the public health. If, after such examination, said department determines that such contamination exists, it shall, by written order, promulgate definite bounds of the area or areas so determined to be contaminated. Before such determination shall be in effect, said department shall: (1) Publish the results of its determination thereof in a newspaper published in each city and town in which or adjacent to which any such contaminated area is situated, (2) Shall file in the office of the clerk of every such city and town the results of such determination, (3) Shall cause to be posted at points on or near every such area a description thereof, specifying said bounds and a statement that

such area is contaminated, (4) Shall notify the directors of the division of marine fisheries and the division of law enforcement of its determination by filing with them properly authenticated copies, certified by the secretary of state, of its determination, publication, filing and posting. Whenever, as a result of a subsequent examination of an area or areas determined by said department to be contaminated, it determines that the shellfish in such area or areas are safe to use as food, notice of such determination shall be published immediately, and the directors notified thereof. The record of any examination hereunder and the bacteriological counts made therein shall be subject to inspection upon request, (5) Personnel of the department of public health, in the performance of their duties under this section, may enter upon and pass through or over private lands or property whether or not covered by water. This section shall not apply to scallops.

1941, 598, s. 44.

1954, 243, s. 1.

1945, 99, s. 1.

This act shall not nullify any determinations in force on the effective date thereof.

1954, 243, s. 2.





## MARINE FISH AND FISHERIES

Chap. 130)

( See page 137, insert after Section 27)

### SECTION 40. CLOSE SEASON ON EDIBLE CRABS.

**PENALTY.** No person, either as principal, agent or employee, shall between December first and the following April thirtieth, both dates inclusive, take or catch edible crabs, by the use of traps or otherwise, from the coastal waters. Violation of the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

1941, 59S s 1

1951, 194





(See page 137, insert in place of Section 44)

SECTION 44. SALE, ETC., OF SHORT LOBSTERS REGULATED. Whoever sells, or offers for sale, or has in possession for a period longer than is necessary for measuring, or for any purpose other than legally disposing of the same, at any time up to and including December first, nineteen hundred and fifty-two, a lobster measuring less than three and three sixteenths inches in length, and at any time thereafter, a lobster measuring less than three and one quarter inches in length, alive or dead, cooked or uncooked, measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell, shall be punished by a fine of not less

than five nor more than ten dollars for every such lobster, and such lobster shall be seized and forfeited, and shall be disposed of by the director to the best interests of the commonwealth. If the measurement of any such lobster taken from one or the other eye sockets is of the required length, such lobster shall be deemed to be a legal lobster. In all prosecutions under this section any mutilation of any lobster which affects its measurement as aforesaid shall be prima facie evidence that the lobster was or is less than the required length. This section shall not apply to common carriers having lobsters in possession for the purpose of transportation.

This act shall take effect on December first in the year nineteen hundred and fifty-one.

1941, 598 s 44

1950, 628 s 2

1951, 408 s 1,2





MARINE FISH AND FISHERIES

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(to be inserted after section 51 on page 138)

SECTION 55. No permit for the taking of shellfish for commercial purposes, except in the city of New Bedford, shall be issued by the aldermen or councilmen of any city or the selectmen of any town to an alien unless he has resided in such city or town for at least

five years next preceding the date of his application therefor, or has been a resident of the county in which such city or town lies for at least five years next preceding the date of such application and has taken shellfish commercially therefrom for such period.

1952, 100, s 55.





(To be inserted in place of Section 76 on page 139.)

Section 76. Construction and maintenance of purification plants. The aldermen or city council of a city or the selectmen of a town wherein lies any area determined and declared by the department of public health, in accordance with section seventy-four, to be contaminated, or ten per cent of the registered voters in any such city or town, may file a petition with the director, stating that the petitioners deem that the shell fisheries in such area are of sufficient commercial value to warrant the construction and maintenance of a new purification plant, or the maintenance of an existing purification plant.

Upon the filing of such petition or upon his own motion, the director shall forthwith, after public notice and a hearing, determine whether the shellfish in this area, or in such area and such similar areas as might reasonably be served by the same purification plant, are of sufficient commercial value to warrant the construction and maintenance of a new purification plant, or the maintenance of an existing purification plant. If such determination is in the affirmative, he shall prescribe the location and plan of such plant and the limits of the areas to be served thereby, or, as to any such purification plant already in existence, he may approve the location, plan and limits thereof in whole or in part, or prescribe such changes therein as he may deem suitable, and shall request the department of public health to make a determination as is provided in section seventy-seven.

Such city or town may thereupon construct or change such plant as prescribed and approved and may appropriate such sum or sums as may be reasonably necessary therefor, or the director may construct or alter such plant within the limits of appropriations available therefor.

The director, with the approval of the governor and council, may, if and when funds are provided by the general court and to the extent of the appropriation or appropriations therefor, establish and thereafter maintain at such places as in his judgment seem suitable, plants for the treatment or purification of shellfish taken from areas determined under section seventy-four, or corresponding provisions of earlier laws, to be contaminated, and for such purposes the director may acquire by purchase or otherwise, or take by eminent domain under chapter seventy-nine, an existing plant and may hold such real property and such rights and easements as may be considered necessary. In connection with the operation of such treatment or purification plants, the director annually shall submit a report to the general court containing statistical data relative to the operation of the plant and a financial statement of receipts and expenditures.

No such plant shall be constructed or operated until approved in writing as to location, plan and operation by the commissioner of public health. The department of public health may from time to time promulgate rules and regulations for the operation of such plants. Said commissioner may suspend such approval at any time, and after a hearing, due notice of which has been given, he may revoke such approval if he is satisfied that there is sufficient evidence of a violation of any conditions upon which such approval was given, or of any rule or regulation promulgated by the department of public health for the operation thereof.

1941, 598, s. 1

1948, 365





cancellation or wilfully fails to surrender the same at the request of said director shall be punished by a fine of not less than twenty nor more than one hundred dollars or by imprisonment for not more than sixty days, or both. The superior court shall have jurisdiction in equity to enforce this section and the rules and regulations of the director made hereunder and to restrain the violation thereof. In any prosecution for a violation of this section the possession, except by a common carrier, of shellfish apparently so dug or taken without a permit herein referred to shall be prima facie evidence of a violation thereof.

1941, 598, § 75.

#### PURIFICATION PLANTS

**SECTION 76. Construction and maintenance of purification plants, request for, etc.** The aldermen or city council of a city or the selectmen of a town wherein lies any area determined and declared by the department of public health, in accordance with section seventy-four, to be contaminated, or ten per cent of the registered voters in any such city or town, may file a petition with the director, stating that the petitioners deem that the shell fisheries in such area are of sufficient commercial value to warrant the construction and maintenance of a new purification plant, or the maintenance of an existing purification plant.

Upon the filing of such petition or upon his own motion, the director shall forthwith, after public notice and a hearing, determine whether the shellfish in this area, or in such area and such similar areas as might reasonably be served by the same purification plant, are of sufficient commercial value to warrant the construction and maintenance of a new purification plant, or the maintenance of an existing purification plant. If such determination is in the affirmative, he shall prescribe the location and plan of such plant and the limits of the areas to be served thereby, or, as to any such purification plant already in existence, he may approve the location, plan and limits thereof in whole or in part, or prescribe such changes therein as he may deem suitable, and shall request the department of public health to make a determination as is provided in section seventy-seven.

Such city or town may thereupon construct or change such plant as prescribed and approved and may appropriate such sum or sums as may be reasonably necessary therefor, or the director may construct or alter such plant within the limits of appropriations available therefor.

No such plant shall be constructed or operated until approved in writing as to location, plan and operation by the commissioner of public health. The department of public health may from time to time promulgate rules and regulations for the operation of such plants. Said commissioner may suspend such approval at any time and after a hearing, due notice of which has been given, he may revoke such approval if he is satisfied that there is sufficient evidence of a violation of any conditions upon which such approval was given, or of any rule or regulation promulgated by the department of public health for the operation thereof.

1941, 598, § 76.

**SECTION 77. Allocation of moneys for purification plants.** Upon receipt of the request provided for in section seventy-six, the department of public health shall, as soon as may be and in such manner as it may deem proper, determine the sources of pollution of the contaminated area or areas referred to therein, and the proportions in which cities and towns within the commonwealth are causing or contributing to the cause of such pollution; provided, that if in any city or town as to which any such proportion is so determined there is a private corporation organized for the purpose of owning and maintaining for profit a system of sewage disposal, said department shall likewise determine whether or not said private corporation is causing or contributing to the cause of the pollution ascribed by the department to such city or town and, if so, in what proportion, and shall forthwith report such determination to the director, who shall thereupon notify each of the cities and towns and private corporations, if any, named in the report of the department of public health as causing or contributing to the pollution of the area or areas in question, and after due notice and hearing, and in such manner as he shall deem just and equitable, allocate the proportion which each of said cities and towns or such private corporation shall bear of the cost of such purification plant as is prescribed or approved under section seventy-six, and the expenses of maintaining such plant thereafter, and shall report his findings to each of said cities and towns. Said report shall be conclusive as to all matters referred to the director and shall be binding upon all parties, but any city or town or other party in interest, may appeal to the supreme judicial court for a review of such report. The court shall have jurisdiction in equity to enforce sections seventy-six to seventy-nine, inclusive.

1941, 598, § 77.

**SECTION 78. Statement of sum expended for purification plants to be submitted to director.** After the completion of the construction of a purification plant prescribed by the director with the approval of the commissioner of public health under section seventy-six, or after their approval of such an existing plant, the same shall be maintained by the city or town in which it is located or may be operated by the director in behalf of the cities or towns contributing to such pollution as determined under the provisions of section seventy-seven until such time as he may determine that the shellfish in the area or areas served by it are no longer of sufficient commercial value to warrant its continuance. On or before January fifteenth of each year unless such plant is operated by the director, any such city or town which shall operate such a plant shall submit to the director an itemized statement certified by its treasurer, showing all sums expended by it during the preceding year on account of any such plant. The director shall approve such sums as he finds to be correct and proper charges. Such proportions of the total amount thereof as have been determined by the department of public health as provided in section seventy-seven to be allocable to cities and towns the director shall apportion thereto in the proportions fixed thereby, and shall forthwith notify each such city or town or other parties of the



amounts so apportioned, which shall thereupon be due and payable to the city or town in which said plant is located, or to the director if so operated. Should such last-mentioned city or town or the director fail to maintain such purification plant in good condition, or to operate the same, the supreme judicial court shall have jurisdiction, upon application of ten registered voters in any one or more of the cities and towns contributing to the expense of such plant, to compel it or him to put the plant in good condition and to operate the same.

1941, 598, § 78.

**SECTION 79. Purification to be free of charge, when.** Such purification plant shall accept and treat for purification, free of charge, all shellfish dug or taken from the area or areas for which such plant is established.

SECTION 80 (See page 141B)  
SECTION 81 (See page 141C)  
INSPECTION OF FISH.

**SECTION 84. Classification of Fish.** All fresh food fish before being offered for sale, placed in cold storage, salted or smoked shall be graded as follows:

"Prime", fish in extra fine condition.

"Superior", fish in suitable condition to stand shipment outside the commonwealth for human consumption as fresh fish.

"Standard", fish in suitable condition for immediate human consumption as fresh fish.

All other fish shall be classified as refuse, shall be deemed unsuitable for human consumption, and may be used only for fish meal, fertilizer or other non-food purposes.

No person shall represent, sell, offer for sale or advertise fresh, frozen, salted or smoked fish of any grade under any misleading or other than the truthful and correct name and grade or corresponding term for such fish.

The word "fish" as used in this section shall be taken to mean only swimming fish or finny fish of the class known as Pisces.

1941, 598, § 84.

**SECTION 85. Cold storage fish to be plainly marked.** Food fish, unless deposited in bulk, when deposited in cold storage except in private freezing plants, shall be plainly marked with the date of receipt on the containers in which they are packed; and if deposited in bulk, shall at the time of removal from cold storage be plainly marked on such containers with the month and year of receipt.

1941, 598, § 85.

**SECTION 86. Sale of frozen fish regulated.** No person shall sell, or represent for the purpose of sale, otherwise than as frozen, fish which have been frozen.

1941, 598, § 86.

**SECTION 87. Fresh swordfish, icing and packing.** No person shall import, or cause to be imported into this commonwealth for purposes of sale, any fresh swordfish unless properly packed in boxes, crates or barrels and so iced as to prevent the same from becoming infected, contaminated or unwholesome.

1941, 598, § 87.

**SECTION 88. Period of time for cold storage regulated.** No person shall deposit or cause to be de-

posited in cold storage for a period exceeding six months fish received from any other state or country which have been previously in cold storage either within or without this commonwealth, unless at the time of deposit such fish are plainly marked with the date of their original deposit in cold storage, whether within or without.

1941, 598, § 88.

**SECTION 89. Director, etc., may inspect fish meant for sale.** The director, a fish inspector or a coastal warden may inspect all fish offered or exposed for sale or kept with intent to sell, and for such purpose may enter any place where fish is stored, kept, offered or exposed for sale, may examine the condition of such place and the equipment thereof and may require that such place and equipment be kept in a sanitary condition. If on inspection it is found that such fish is tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, the director, fish inspector or coastal warden shall seize and the director cause the same to be destroyed forthwith or disposed of otherwise than for food. All money received for fish disposed of as aforesaid, after deducting the expense of said seizure and disposal, shall be paid to the owner of such fish. The director shall from time to time make rules and regulations necessary for the enforcement of sections eighty-four to ninety-three, inclusive.

1941, 598, § 89.

**SECTION 90. Penalty for sale of tainted, etc., fish.** Whoever, himself or by his agent, sells, or offers or exposes for sale, or keeps with intent to sell or offer or expose for sale, for food purposes fish which is tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, or whoever violates any provisions of sections eighty-four to eighty-eight, inclusive, or whoever violates any regulation made under section eighty-nine, or prevents, obstructs or interferes with the director, a fish inspector or a coastal warden in the performance of his duties under any provision of said sections, or hinders, obstructs or interferes with any inspection or examination by him, or secretes or removes any fish for the purpose of preventing the inspection or examination of the same under section eighty-nine shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

1941, 598, § 90.

**SECTION 91. Food fish to be sold by weight.** All food fish except soft-shell clams and oysters sold at wholesale shall be sold by weight and shucked scallops or quahaugs in the shell shall not be sold at any time except by weight. Whoever violates this section shall be punished by a fine of not less than ten nor more than fifty-dollars.

1941, 598, § 91.

**SECTION 92. Sale, etc., of scallops regulated.** No person shall sell, exchange, transport, or deliver, or offer or expose for sale, exchange or deliver, or have in his custody or possession with intent to sell, exchange, transport or deliver, any scallops which have been soaked, or any scallops not in the shell unless such scallops are in a box, carton, tray or other container plainly and conspicuously stamped, labelled or

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(To be inserted in place of Section 87, on page 140.)

Section 87. Fresh swordfish, icing and packing. No person shall import, or cause to be imported into this commonwealth for purposes of sale, any fresh swordfish unless properly packed in ice so as to prevent the same from becoming infected, contaminated or unwholesome.

1941, 598, s. 87. 1954, 186.





Chap. 130) See page 136, preceding Section 22)

## GENERAL PROVISIONS

*Supersede*

**SECTION 2. LICENSE, ETC., NOT TRANSFER-  
ABLE.** The director may suspend any license, permit or certificate, issued under any provision of law relating to marine fish or fisheries, or issued under any rule or regulation made under authority thereof, for such period of time and for any cause which he deems sufficient, and may order such license, permit or certificate, to be delivered to him, and without limiting the director's authority to suspend, every such license, permit or certificate, so issued, held by any person found guilty of, or convicted of, or penalized in any manner for a violation of the provisions of sections thirteen, thirty-one, thirty-four, thirty-five, forty-one, forty-three, forty-four, sixty-nine, seventy, or seventy-five of this chapter, even though the case is filed, shall be void and shall immediately be surrendered to any officer authorized to enforce the laws relating to marine fish and fisheries. No person whose license, permit or certificate has become void shall be given a new license, permit or certificate of any kind, under authority of any provision of law relating to marine fish or fisheries, during the period of one year from the date of his being found guilty or penalized as aforesaid, and any such license, permit or certificate, so issued shall also be void and shall be surrendered on demand of any officer authorized to enforce the laws relating to marine fish or fisheries. No fee received for a license, permit or certificate suspended or made void under this section shall be refunded.

1933, 329§2

1945, 98§3

1941, 598§1

1949, 566§1

**SECTION 13. DISPLAY OF FISH UPON DEMAND.** The director, a coastal warden, a deputy coastal warden, a fish inspector, or any member of the state police may request any person whom he has cause to believe is engaged in unlawfully fishing, or to be

unlawfully in possession of fish, or to be in possession of fish unlawfully taken, to forthwith display for inspection all fish then in his possession, and may arrest without warrant a person refusing or failing to comply with such request.

Whoever, being in a boat in coastal waters throws or dumps overboard the contents of any pail, bag, barrel or other receptacle, or throws overboard any fish, after having been requested or signalled by any officer authorized to enforce this section to stand by for inspection shall be deemed to have violated this section.

Whoever violates any provision of this section shall be punished by a fine of not less than one hundred nor more than two hundred dollars.

1941, 598§13

1949, 566§2

See page 137, after Section 27)

## LOBSTERS

**SECTION 43. EGG-BEARING LOBSTERS TO BE MARKED.** Between March first and October thirty-first, both dates inclusive, in any year, the director may authorize the taking, sale or possession of egg-bearing lobsters by any person licensed under section thirty-eight to catch or take lobsters and edible crabs, upon the condition that such egg-bearing lobsters (1) shall be taken, held or delivered in accordance with the instructions of the director to a plant for the propagation of lobsters established and maintained for rearing them from the time of hatching to the bottom crawling stages or to a federal plant maintained within the commonwealth for the same purpose, (2) or shall be otherwise disposed of as the director may deem for the best interests of the commonwealth, and persons taking such egg-bearing lobsters under such authority shall be paid by the director to the extent of the appropriation or appropriations therefor but at a rate not above the wholesale market price of other lobsters. Before any such egg-bearing



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lobster is so disposed of by liberating, it shall be marked by the director or his authorized agent by punching a single V notch in either of the flippers next to the middle flipper of its tail. Any person having possession of any lobster so marked, or marked according to any law heretofore in effect or of any lobster mutilated in such manner as to hide or obliterate such mark, shall be punished by a fine of not less than fifty or more than two hundred dollars or by imprisonment for not more than thirty days, or both; but any person catching any lobster so marked or mutilated and immediately returning the same to the waters from which taken shall not be deemed to have violated the foregoing provisions of this section. If the eggs from the lobsters so obtained shall be hatched the young therefrom shall be reared to the bottom crawling stages. Lobsters from which eggs have been so hatched, and the young lobsters so reared, shall be liberated, as nearly as possible, in the areas from which such egg-bearing lobsters were obtained and in the same proportion. Nothing in this section shall be so construed as to prevent the director from otherwise disposing of lobsters from which eggs have been so removed, or young lobsters so reared, when in the opinion of the director by so doing depleted or non-productive areas may be benefited. The commissioner in his biennial budget estimates, filed pursuant to section three of chapter twenty-nine, shall include a statement of appropriation or appropriations recommended by him for the purpose of carrying this section into effect.

1941, 598

1945, 244§6

1949, 565§3

(See page 140, after Section 79)

## COMMERCIAL PERMITS AND CERTIFICATES

## SECTION 80. COMMERCIAL TAKING AND DISTRIBUTION OF SHELLFISH REGULATED. Except

as provided in section seventy-five, and except that this section shall not apply to scallops, no person shall engage in the commercial distribution of fish in this commonwealth as set forth herein, unless he is the holder of a certificate hereinafter mentioned in full force and effect therefor, authority to grant such certificate being hereby vested in the director.

No person shall, for commercial use, dig or take shellfish without a bed certificate, stating that the coastal waters and flats from which said shellfish are or are to be dug or taken, and the shellfish therein and thereon, are free from contamination.

No person, as a dealer, shall engage in the commercial distribution of shellfish without first obtaining a dealer's shellfish certificate, and no person shall operate a shucking plant without a dealer's shellfish certificate for an approved shucking plant.

No person shall buy shellfish within this commonwealth to ship outside the commonwealth, or maintain an establishment for packing shellfish for such shipment, without first obtaining a dealer's shellfish shipping certificate, and no person shall dig or take shellfish for such shipment or packing, or both, without first obtaining a digger's shellfish shipping certificate.

No person, as a wholesale dealer, shall engage in the commercial distribution of fish other than shellfish within this commonwealth or ship the same outside the commonwealth without first obtaining a wholesale fish dealer's certificate.

The director shall promulgate rules and regulations relative to the form, contents and use of all certificates issued under this section and relative to the condition of establishments referred to in this section or to equipment of persons operating such establishments under such certificates, and

(See page 141A, insert in place of Section 2)

**SECTION 2. LICENSE, ETC., NOT TRANSFERABLE**  
Unless otherwise specifically provided by law, every license, permit or certificate, issued under any provision of this chapter or any other provisions of law relating to marine fish and fisheries or of any rules and regulations made under authority thereof, held by any person convicted of a violation of any of the laws relating to marine fish and fisheries or any rule or regulation made under authority thereof by a court of competent jurisdiction, shall be suspended and inoperative for one month for the first offence, three months for the second offence, and for one year for any subsequent offence. All suspended or void licenses, permits or certificates shall be surrendered forthwith to any officer authorized to enforce the laws relating to marine fish and fisheries. No person whose license, permit or certificate has become suspended or void shall be given a new license, permit or certificate under authority of any provision of law relating to marine fish and fisheries during the period of suspension,

and any license, permit, or certificate so issued shall also be void and shall be surrendered forthwith on demand of any officer authorized to enforce the laws relating to marine fish and fisheries. No fee received for a license, permit or certificate suspended or made void under this section shall be refunded. All traps, trawls, pots, buoys, lines, boats or other fishing gear used in violation of the laws relating to lobsters may be impounded by the division of law enforcement for a period of not less than thirty days nor more than one year from and after the date on which the owner, lessee or person in possession of such traps, trawls, pots, buoys, lines, boats or other fishing gear is convicted of such violation; provided, nevertheless, that no license, permit or certificate shall become suspended or inoperative hereunder in any case where the court has accepted a plea of nolo contendere by the party accused.

1933, 329 s 2

1941, 598 s 1

1945, 98 s 3

1949, 566 s 1

1950, 628 s 1

1951, 360





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such other rules and regulations relative to fish or shellfish as will most effectively safeguard the public health and meet the requirements of the United States as to the interstate commerce in fish or shellfish and of other states in relation to the importation, inspection and consumption thereof within their respective limits.

Said rules and regulations shall be subject to the approval of the department of public health in so far as sanitary requirements are concerned. At the request of the commissioner of public health, or of his own motion, the director shall revoke and cancel and require the surrender of any certificate issued by him under this section if, in his opinion, after a hearing, after due notice, by him or some person designated by him, the holder thereof is guilty of violating any such rule or regulation, or any provision of this or section seventy-five, or upon a change in the facts and conditions set forth in such certificate. Pending the hearing the certificate shall be suspended. Whoever violates any provision of this section shall be punished by a fine of not less than ten or more than fifty dollars and imprisonment for thirty days, or both.

No person holding a valid dealer's shellfish certificates for either shell or stock or shucked stock need at the same time hold a separate bed certificate; no person holding a digger's or dealer's shipping certificate need at the same time hold a separate bed certificate or a dealer's shellfish certificate; no person holding a master digger's permit under section seventy-five need at the same time hold a separate digger's permit; and no person holding a wholesale fish dealer's certificate need at the same time hold a dealer's shellfish certificate or a separate dealer's shipping certificate.

No person holding a master digger's permit or a digger's permit for an individual who digs shellfish for the holder of a master digger's permit shall at the same time hold a bed certificate.

1939, 329§2

1941, 598

1945, 98§7

**SECTION 81. TRANSPORTING SHELLFISH INTO COMMONWEALTH REGULATED: CERTIFICATES FOR.** No person shall transport, or cause to be transported, into this commonwealth for consumption as food, any shellfish taken or dug from areas outside the commonwealth, or sell, cause to be sold, or keep, offer or expose for sale for consumption as aforesaid any shellfish so taken, dug, unless there is on file in the department of public health a certificate, approved by said department, in which the state board of department of health or other board or officer having like powers of the state, country or province where such areas are situated states that such areas are free from contamination, and also a certificate, approved as aforesaid, in which such state board or department of health or other board or officer having like powers states that the establishment and equipment of the person shipping said shellfish into the commonwealth are in good, sanitary condition, nor shall any person transport or cause to be transported within this commonwealth any shellfish for consumption as food, unless the container of such shellfish shall at all times while in such transportation, bear a label or tag legibly marked with the name and address of the producer and of the shipper thereof and the numbers of such certificates, and the name of the place where and the date when taken and absence of such label or tag so marked or failure to allow an inspection shall be prima facie evidence of violation of this section; provided, that the foregoing provisions relative to transportation shall not apply to common carriers, their servants or agents. No such certificate shall be approved by the department of public health which does not meet the provisions of the laws, rules, regulations and requirements of the United States as to interstate commerce in shellfish.

A list of certificates shall be filed



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with the director. Whoever violates any provision of this section shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment for not more than thirty days, or both. The provisions of this section shall be enforced by the department of public health, local boards of health, the director and all officers qualified to serve criminal process; provided that the provisions of this section and of section eighty-two

shall not apply to shellfish taken from an area declared to be contaminated under the provisions of section seventy-four or corresponding provisions of earlier laws. This section shall not apply to scallops.

1933, 329§2

1941, 598

1945, 99§2

marked with (a) the word "Massachusetts", followed by the name of the town or of the locality where taken, if taken from waters or flats within the commonwealth; or (b) the name of the state, country or province where taken, if taken from waters or flats outside the commonwealth; or (c) the words "Sea Scallops", if of the species commonly so known.

Whoever fails to comply with any provision of this

section, or whoever falsely stamps, labels or marks such a box, carton, tray or other container, or whoever falsely advertises any of the shellfish herein referred to, shall be punished by a fine of not less than ten nor more than fifty dollars or imprisonment for thirty days or both.

This section shall not apply to common carriers having scallops in possession for the purpose of transportation. *see green sheet - Chapter 13*  
1941, 598, § 92.

## CHAPTER 138.

### ALCOHOLIC LIQUORS.

#### SECT.

36. Analysis of alcoholic beverages by state department of public health.  
37. Certificate to accompany sample.  
38. State secretary to provide certain forms.  
39. Tampering with samples forbidden.  
40. Court may order analysis.

**SECTION 36. Analysis of alcoholic beverages by state department of public health.** The analyst or assistant analyst of the department of public health shall upon request make, free of charge, an analysis of all alcoholic beverages sent to it by the licensing authorities or by police officers or other officers authorized by law to make seizures of alcoholic beverages, if the department is satisfied that the analysis requested is to be used in connection with the enforcement of the laws of the commonwealth. The said department shall return to such police or other officers, as soon as may be, a certificate, signed by the analyst or assistant analyst making such analysis, of the percentage of alcohol which such samples of beverages contain, and, if the commission so requests, of the composition and quality of such beverages as shown by the samples submitted. Such certificate shall be prima facie evidence of the composition and quality of the alcoholic beverages to which it relates, and the court may take judicial notice of the signature of the analyst or the assistant analyst, and of the fact that he is such.

1869, 415, § 25.	R. L. 100, § 67.	G. L. 188, § 54.
1872, 266, § 2.	1902, 110.	1921, 495.
1875, 99, § 21.	1914, 110.	1922, 22.
1878, 244, § 2.	1914, 792, § 1.	1933, 376, § 2.
1879, 278, § 1.	1919, 350, § 96.	1934, 385, § 17.
P. S. 100, § 29.	1920, 29.	245 Mass. 406.
1882, 221, § 1.		

**SECTION 37. Certificate to accompany sample.** A certificate shall accompany each sample of beverages sent for analysis by an officer to the department of public health stating by whom the beverages were seized, the date of the seizure and the name and residence of the officer who seized said beverages. Said department shall note upon said certificate the date of the receipt and the analysis of said alcoholic beverages and the percentage of the alcohol or the composition and quality of said beverages, as the case may be, as required by the preceding section. Said certificate shall be in the following form:—

SS. CITY OF (OR TOWN OF) 19 .  
To the Department of Public Health.

SIRS:—I send you herewith a sample of  
taken from alcoholic beverages seized by me  
(date) 19 .

Ascertain the percentage of alcohol it contains or

the composition and quality thereof, as the case may be, and return to me a certificate herewith upon the annexed form.

*Member or Authorized Employee of the  
Alcoholic Beverages Control Commission*

*Constable of  
Police Officer of*

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH.

This is to certify that the received by this department with the above statement and analyzed by me contains per cent of alcohol or is composed of the following constituents in the following percentages and that its quality is

Received 19 .  
Analysis made 19 .  
DEPARTMENT OF PUBLIC HEALTH,  
By .....

*Analyst.*

1882, 221, § 2.	1919, 350, § 95.	147 Mass. 444.
R. L. 100, § 68.	G. L. 188, § 55.	245 Mass. 406.
1902, 110.	1933, 376, § 2.	258 Mass. 86.
1914, 792, § 1.	1934, 385, § 18.	259 Mass. 109.

**SECTION 38. State secretary to provide certain forms.** The commission shall provide and cause officers to be supplied with a suitable number of the forms prescribed by section thirty-seven. The certificate of the department of public health, given substantially in the form hereinbefore set forth, shall be admitted as evidence on trials for the forfeiture of alcoholic beverages as to the composition and quality of the beverages to which it relates.

1882, 221, § 3.	G. L. 188, § 56.	1941, 199.
R. L. 100, § 69.	1933, 376, § 2.	259 Mass. 111.

**SECTION 39. Tampering with samples forbidden.** No person shall tamper with samples of alcoholic beverages taken as provided in section sixty-three or alter the statements made upon the forms or certificates aforesaid.

1882, 221, § 4.	G. L. 188, § 57.	259 Mass. 111.
R. L. 100, § 70.	1933, 376, § 2.	

**SECTION 40. Court may order analysis.** Any court or trial justice may cause alcoholic beverages which have been seized under this chapter to be analyzed by a competent chemist, and the reasonable expense thereof, including a fee of not more than five dollars for each analysis, shall be taxed, allowed and paid like other expenses in criminal cases.

1882, 221, § 5.	G. L. 188, § 58.	259 Mass. 111.
R. L. 100, § 71.	1933, 376, § 2.	



## CHAPTER 140.

LICENSES, PUBLIC LODGING HOUSES, SMOKE NUISANCE,  
DOGS, BOATING AND BATHING.

## SECT.

- 32A. Overnight camps, etc.
- 32B. Local Boards of Health to issue licenses.
- 32C. Inspections.
- 32D. Rules, etc., to be posted.
- 32E. Penalty.

## PUBLIC LODGING HOUSES.

- 33. Definition.
- 34. Licenses.
- 35. Inspection of means of escape from fire.
- 36. Inspection by board of health.
- 37. Register.
- 38. Access for purposes of inspection.
- 39. Penalty for keeping public lodging house without a license.
- 40. Penalty.

## MISCELLANEOUS PROVISIONS.

- 51. Massage and vapor baths, regulated.
- 52. Officers may enter premises.
- 53. Penalty.

## SMOKE NUISANCE.

- 132. Smoke nuisance.
- 133. Permits.
- 134. Objections to permits.
- 135. Enforcement.
- 136. Penalty.

## DOGS.

- 136A. Dogs.
- 145. License to have description of hydrophobia printed on it.
- 145A. Boards of health to furnish antirabic vaccine.
- 167. Dogs may be required to be muzzled.
- 168. Service of notice. Penalty.
- 169. Penalty on town officer.

## BOATING AND BATHING.

- 194. License.
- 195. Posting notices.
- 196. Penalty for acting without license.

RECREATIONAL CAMPS, OVERNIGHT CAMPS OR  
CABINS AND TRAILER CAMPS. - Dec 142A  
321A - 321F

**SECTION 32A. Overnight Camps, etc., to be Licensed.** No person shall conduct, control, manage or operate, directly or indirectly, any recreational camp, overnight camp or cabin or trailer camp unless he is the holder of a license granted under the following section.

1939, 416.

**SECTION 32B. Local Board of Health to Issue Licenses.** The board of health of any city or town, in each instance after a hearing, reasonable notice of which shall have been published once in a newspaper published in such city or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight camps or cabins or trailer camps located within such city or town, which license, unless previously suspended or revoked, shall expire on December thirty-first in the year of issue, but may be renewed annually upon application without such notice and hearing. The fee for each original license shall be three dollars and for each renewal thereof fifty cents. Such board of health shall at once notify the state department of public health of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water

supply to be polluted or the works for the disposition of the sewage to be insanitary, or both of such conditions, said department shall forthwith notify such board of health and such licensee to that effect by registered mail and said board shall forthwith prohibit the use of any water supply found by said department to be polluted. Unless such licensee shall, within thirty days following the giving of such notice, correct the conditions at such premises to the satisfaction of both said department and such board the license so granted shall be suspended or revoked by such board. Any license so suspended may be reinstated by such board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to said department and such board. The board of health of a city or town may adopt, and from time to time alter or amend, rules and regulations to enforce this section in such city or town.

1939, 416.	1940, Op. A. G. 75.	1941 Op. A. G. 13.
1941, 396.	1940, Op. A. G. 76.	1942, Op. A. G. 73.
1945, 153.		

**SECTION 32C. Inspections.** Every board of health shall from time to time examine all camps and cabins licensed by it under authority of section thirty-two B, and if, upon such examination, such camp or cabin is found to be in an unsanitary condition, said board of health may, after notice and a hearing, suspend or revoke the license.

1939, 416.

**SECTION 32D. Rules, Etc., to be Posted.** Whoever conducts, controls, manages or operates any camp or cabin licensed under section thirty-two B shall post in a conspicuous place near the entrance to every such camp or cabin a copy of the rules and regulations adopted thereunder, as most recently altered or amended.

1939, 416.

**SECTION 32E. Penalty.** Whoever conducts, controls, manages or operates any camp or cabin subject to section thirty-two A to thirty-two C, inclusive, which is not licensed under section thirty-two B, shall be punished by a fine of not less than ten nor more than one hundred dollars.

1939, 416.

## PUBLIC LODGING HOUSES.

**SECTION 33. Definition.** In cities of over fifty thousand inhabitants every building not licensed as an inn, in which ten or more persons are lodged free or for a charge of twenty-five cents or less for each person for a day of twenty-four hours, or for any part thereof shall be deemed a public lodging house within the meaning of sections thirty-four to forty, inclusive. No building or part thereof erected, altered or converted to be used as such a public lodg-

(To be inserted in place of Sections 32A, 32B, 32C, 32D, and 32E, on page 142.)

Section 32A. Recreational Camps, Overnight Camps or Cabins, Motels and Trailer Coach Parks. No person shall conduct, control, manage or operate, directly or indirectly any recreational camp, overnight camp or cabin, motel or trailer camp unless he is the holder of a license granted under the following section.

1939, 416. 1954, 134, s 2, 3.

Section 32B. Local Board of Health to Issue Licenses. The board of health of any city or town, in each instance after a hearing, reasonable notice of which shall have been published once in a newspaper published in such city or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight camps or cabins, motels or trailer camps located within such city or town, which license, unless previously suspended or revoked, shall expire on December thirty-first in the year of issue, but may be renewed annually upon application without such notice and hearing. The fee for each original license shall be three dollars and for each renewal thereof fifty cents. Such board of health shall at once notify the state department of public health of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be insanitary, or both of such conditions, said department shall forthwith notify such board of health and such licensee to that effect by registered mail and said board shall forthwith prohibit the use of any water supply found by said department to be polluted. Unless such licensee shall, within thirty days following the giving of such notice, correct the conditions at such premises to the satisfaction of both said department and such board to license so granted shall be suspended or revoked by such board. Any license so suspended may be reinstated by such board when the conditions at such premises,

as to sources of water supply and works for the disposition of sewage, are satisfactory to said department and such board. The board of health of a city or town may adopt, and from time to time alter or amend, rules and regulations to enforce this section in such city or town.

1939, 416.	1940, Op. A.G. 76.
1941, 396.	1941, Op. A.G. 13.
1945, 153.	1942, Op. A.G. 73.
1940, Op. A.G. 75.	1954, 134, 4.

Section 32C. Inspections. Every board of health shall from time to time examine all camps, motels and cabins licensed by it under authority of section thirty-two B, and if, upon such examination, such camp, motel or cabin is found to be in an insanitary condition, said board of health may, after notice and a hearing, suspend or revoke the license.

1939, 416. 1954, 134, 5.

Section 32D. Rules, Etc., to be Posted. Whoever conducts, controls, manages or operates any camp, motel or cabin licensed under section thirty-two B shall post in a conspicuous place near the entrance to every such camp, motel or cabin a copy of the rules and regulations adopted thereunder, as most recently altered or amended.

1939, 416. 1954, 134, 6

Section 32E. Penalty. Whoever conducts, controls, manages or operates any camp, motel or cabin subject to section thirty-two A to thirty-two C, inclusive, which is not licensed under section thirty-two B, shall be punished by a fine of not less than ten nor more than one hundred dollars.

1939, 416. 1954, 134, 7.





## POWERS AND DUTIES OF THE DIVISION OF FISHERIES AND GAME

### CHAPTER 131.

(To be inserted after Chapter 130, on page 141.)

Section 28. Discharge of Waste Material into Certain Inland Waters Regulated; Penalty. If the director of the division of fisheries and game determines that any fisheries in inland waters of the commonwealth are of sufficient value to warrant the prohibition or regulation of the discharge or escape of sawdust, shavings, garbage, ashes, acids, oil, sewage, dye-stuffs, or other waste material from any saw mill, manufacturing or mechanical plant, or dwelling house, stable or other building, which may, directly or indirectly, materially injure such fisheries, he shall thereupon give written notice of such determination to the commissioner of public health. Upon receipt of such notice, the commissioner of public health, after giving reasonable notice of a public hearing to all parties interested, including the director of the division of fisheries and game, shall hold such hearing in the county where the saw mill, manufacturing or mechanical plant, dwelling house, stable or other building is located. At such hearing, any person shall be heard. After such hearing, the commissioner of public health, if he determines that the said discharge or escape should be prohibited or regulated to preserve the value of said fisheries, shall by written notice sent by mail to or served upon the owner or tenant of the mill, plant, house or other building affected, prohibit or regulate the discharge or escape therefrom of any or all such injurious substances into the inland

waters. Such order shall take effect ten days from the date of the order and may be revoked or modified by the commissioner of public health at any time after he has consulted with respect to such revocation or modification with the director of the division of fisheries and game. Upon petition of any party aggrieved by the order of the commissioner of public health, which petition must be filed within six months after the date of such order, the superior court may, in equity, after such notice as it deems sufficient, hear all interested parties and may annul, alter or affirm the order. If such petition is filed by the party aggrieved within ten days of the date of said order, said order shall not take effect, unless such petition shall be dismissed, until altered or affirmed as aforesaid. Whoever, in violation of any order made pursuant to this section, of which such person has had due notice and which has taken effect, discharges from such plant or building under his control any of the aforesaid materials, the discharge of which therefrom is forbidden by such order, or suffers or permits the same to be discharged or to escape from such plant or building into any inland waters, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not more than one year or both.

1941, 599, s 2.

1952, 501, s 2.





(See page 142, insert in place of Sections 32A through 32F, inclusive)

# RECREATIONAL CAMPS, OVERNIGHT CAMPS OR CABINS AND TRAILER COACH PARKS

SECTION 32A. OVERNIGHT CAMPS, ETC., TO BE LICENSED. No person shall conduct, control, manage or operate, directly or indirectly, any recreational camp, overnight camp or cabin or trailer coach park unless he is the holder of a license granted under the following section.

1939, 416                      1950, 326, ss 2,3

SECTION 32B. LOCAL BOARD OF HEALTH TO ISSUE LICENSES. The board of health of any city or town, in each instance after a hearing, reasonable notice of which shall have been published once in a newspaper published in such city or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight camps or cabins or trailer coach parks located within such city or town, which license, unless previously suspended or revoked, shall expire on December thirty-first in the year of issue, but may be renewed annually upon application without such notice and hearing. The fee for each original license shall be three dollars and for each renewal license fifty cents. Such board of health shall at once notify the state department of public health of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be insanitary, or both of such conditions, said department shall forthwith notify such board of health and such licensee to that effect by registered mail and said board shall forthwith prohibit the use of any water supply found by said department to be polluted. Unless such licensee

shall within thirty days following the giving of such notice, correct the conditions at such premises to the satisfaction of both said department and such board the license so granted shall be suspended or revoked by such board. Any license so suspended may be reinstated by such board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to said department and such board. The board of health of a city or town may adopt, and from time to time alter or amend, rules and regulations to enforce this section in such city or town.

1939, 416	1941, Op. A.G. 13
1941, 396	1942, Op. A.G. 73
1945, 153	1950, 326 s 4
1940, OP. A.G. 75	1950, 802, s 1
1940, Op. A.G. 76	

SECTION 32C. INSPECTIONS. Every board of health shall from time to time examine all camps, trailer coach parks and cabins licensed by it under authority of section thirty-two B, and if, upon such examination, such camp, trailer coach park or cabin is found to be in an insanitary condition, said board of health may, after notice and a hearing, suspend or revoke the license.

1939, 416                      1950, 326, s 5

SECTION 32D. RULES, ETC., TO BE POSTED. Whoever conducts, controls, manages or operates any camp, trailer coach park or cabin licensed under section thirty-two B shall post in a conspicuous place near the entrance to every such camp, trailer coach park or cabin a copy of the rules and regulations adopted thereunder, as most recently altered or amended.

1939, 416                      1950, 326, s 6

SECTION 32E. PENALTY. Whoever conducts, controls, manages or operates any camp, trailer coach park or cabin subject to sections thirty-two A to thirty-two C, inclusive, which is not licensed under section thirty-two B, shall be punished by a fine of not less than ten nor more than one hundred dollars.

1939, 416                      1950, 326, s 7



## TRAILER COACH PARKS

**SECTION 32F. LICENSES.** Any lot or tract of land upon which three or more trailer coaches occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with trailer coaches, shall be deemed a trailer coach park. No lot or tract of land may be used for a trailer coach park unless the owner or occupant thereof is the holder of a license granted under section thirty-two B. The board of health of a city or town shall, forthwith upon granting an original or renewal license under section thirty-two B for a trailer coach park, send a copy of such license to the city or town clerk.

1950, 326, s 8

1950, 802, s 2

**SECTION 32G. FEES.** Except as hereinafter provided, a monthly fee of three dollars for each trailer coach occupying space in a trailer coach park for a period of more than ten days in any quarter shall be collected from the owner of the coach by the owner or operator of the park, who shall file a return thereof with the city or town clerk. The amounts so collected shall be retained by the owner of the park and applied to the payment of taxes assessed against said park. No such fee shall be collected from the owner of a trailer coach upon which a property or excise tax has been previously assessed and paid to any city or town in the commonwealth for the same calendar year, nor to a tourist during the period from June fifteenth to September fifteenth. The term "tourist" as used in this section shall mean a person who occupies space in a trailer coach park for a period of not more than ninety days from June fifteenth to September fifteenth, inclusive, the members of whose family do not accept gainful employment.

1950, 326, s 8

1950, 802, s 3

**SECTION 32H. CONDITIONAL LICENSE.** An applicant for a license under section thirty-two B for a trailer coach park which has not been equipped with the buildings, structures, fixtures and facilities necessary to conduct a trailer coach park, shall file with the board a plan showing the buildings, structures, fixtures and facilities, and in general the proposed set-up which he plans to have upon said premises if and when the license may issue, together with an itemized estimate of the cost of the same, and thereupon the board, with the approval of the state department of public health, shall grant a trailer coach park license upon the condition that such license shall issue upon the completion of the premises according to the plans and estimate submitted, providing that the proposed trailer coach park will be in compliance with all applicable laws, ordinances, rules and regulation. Such conditional license may be suspended or revoked in accordance with the provisions of section thirty-two B.

1950, 326, s 8

**SECTION 32I. REGISTER.** Every holder of a license for a trailer coach park shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name or name in ordinary use, address and registration of each owner and occupant of a trailer coach or motor vehicle renting space at such park, the date of entering and the date of leaving of said trailer coach or motor vehicle. Such register shall be retained by the holder of the license for a period of at least one year after the date of the last entry, and shall be open to the inspection of the licensing authorities, their agents, and the police. Whoever wilfully and knowingly violates any provision of this section shall be punished by a fine of not less than five dollars nor more than one hundred dollars.

1950, 326, s 8

(To be inserted in place of Section 32G,  
on Page 142B.)

Section 32G. In addition to the license fee provided for under section thirty-two B, each trailer coach park owner or operator licensed under said section shall pay an additional license fee of four dollars per month or major fraction thereof, on account of each trailer coach occupying space within the said trailer coach park. Such license fee shall be collected by the trailer park operator from the owner or occupant of each trailer so occupying space in such trailer park at the end of each said month or major fraction thereof, and shall be deposited with the collector of taxes in the city or town in which the trailer coach park is located not later than the tenth day of the month next following. The trailer park operator shall, not later than the fifth day of each month, file with the licensing authority a list containing the amounts collected together with the name and address of each owner or occupant of a trailer coach occupying space during the preceding month. The licensing authority shall forthwith commit the list to the collector of taxes in the city or town in which the trailer coach park is located for collection. Such a collector shall in the collection of such accounts have all the remedies provided by sections thirty-five, thirty-six and ninety-three of chapter sixty for the collection of taxes on personal property. The collector of taxes, shall, once in each week

or oftener, pay over to the city or town treasurer all money received by him during the preceding week or lesser period on account of such fee provided for in this section shall be exempt from any property tax as provided in clause Thirty-sixth of section five of chapter fifty-nine.

The collector of taxes shall report to the licensing authority any failure to deposit with him any license fee so collected, and any failure by a trailer park operator to collect any license fee provided for under this section or to deposit with the collector of taxes any license fee so collected shall be deemed cause for the revocation of any license granted under section thirty-two B. In addition, any wilful failure to deposit with the collector of taxes a license fee which has been so collected shall be punishable by a fine of not less than ten nor more than one hundred dollars for each fee so collected and not deposited.

1954, 410





**SECTION 32J. POSSESSION.** If the trailer coach owner holds possession of a trailer coach space in a trailer coach park without right, after the determination of a lease by its own limitation, or by notice to quit, or otherwise the licensee entitled to the trailer coach space may recover possession thereof by summary process.

1950, 326, s 8

**SECTION 32K. APPEAL.** Any person aggrieved by any act, rule, order or decision of the licensing board, may appeal to the superior court. After suspension or revocation the license may be reinstated or reissued if the conditions leading to suspension or revocation have been remedied and the park is being maintained and operated in full compliance with law.

1950, 326, s 8

A license for a trailer camp granted under section thirty-two B of chapter one hundred and forty of the General Laws prior to the effective date of chapter three hundred and twenty-six of the acts of the current year shall be deemed to be a license for a trailer coach park under said section thirty-two B as amended.

1950, 802, s 4

This act shall become operative as of the effective date of chapter three hundred and twenty-six of the acts of the current year.

1950, 802, s 5





ing house shall have the sleeping compartments arranged on the cubicle plan.

1894, 414, § 1. 1911, 129. G. L. 140, § 38.  
1904, 242, §§ 1, 8. 1915, 160, § 1.

**SECTION 34. Licenses.** The officer or board having charge of the police in any such city may license persons to keep public lodging houses therein, and shall immediately revoke such license if the licensee violates any provision of sections thirty-five to thirty-eight, inclusive. No fee shall be charged for such license, and, subject to section forty-nine of chapter one hundred and forty-three when applicable, it shall expire on the thirtieth day of April next after the granting of the same. Every such license shall specify the street and number, if any, of the building where the business is to be carried on or give some other particular description thereof, and the license shall not protect a licensee who carries on his business in any other place.

1894, 414, §§ 2, 7. 1904, 242, §§ 2, 7, 8. G. L. 140, § 34.

**SECTION 35. Inspection of Means of Escape from Fire.** No such license shall be granted in any such city until the inspector of buildings thereof, or the other officer or board having authority to administer the laws and ordinances in regard to the construction of buildings therein, has certified that the building, if it has eight or more rooms or ten or more persons are accommodated above the second story, complies with the requirements of chapter one hundred and forty-three, and in other cases is provided with sufficient means of escape in case of fire, and that suitable appliances are provided for extinguishing fires and for giving alarm to the inmates in case of fire; and such officer or board may from time to time require such alterations to be made or such additional appliances to be provided as may in his or its judgment be necessary for the protection of life and property in case of fire.

1894, 414, § 8. 1913, 655, § 20. G. L. 140, § 35.  
1904, 242, §§ 3, 8. For penalty see § 40.

**SECTION 36. Inspection by Board of Health.** No such license shall be granted in any such city until the board of health thereof has certified that the building is provided with a sufficient number of water closets and urinals and with good and sufficient means of ventilation; and the said board may from time to time require the licensee thoroughly to cleanse and disinfect all parts of said building and the furniture therein to the satisfaction of such board.

1894, 414, § 4. For penalty see § 40. G. L. 140, § 36.  
1904, 242, §§ 4, 8.

**SECTION 37. Register.** In every public lodging house a register shall be kept in which shall be entered the name and address of each lodger, together with the time of his arrival and departure, and such register shall at all times be open to the inspection of the police.

1894, 414, § 5. For penalty see § 40. G. L. 140, § 37.  
1904, 242, §§ 5, 8.

**SECTION 38. Access for Purposes of Inspection.** The keeper of every public lodging house shall at all times, when so required by any officer of the building department, of the health department, or of the

police department, give him free access to said house or any part thereof.

1894, 414, § 6. For penalty see § 40. G. L. 140, § 38.  
1904, 242, §§ 6, 8.

**SECTION 39. Penalty for keeping Public Lodging House without a License.** Whoever keeps or holds himself out as keeping a public lodging house without being duly licensed as hereinbefore provided, and whoever is concerned or financially interested in any public lodging house, the keeper of which is not so licensed, shall be punished by a fine of not more than one hundred dollars.

1894, 414, § 7. 1904, 242, §§ 7, 8. G. L. 140, § 39.

**SECTION 40. Penalty.** Any keeper of a public lodging house who violates any provision of sections thirty-five to thirty-eight, inclusive, shall be punished by a fine of one hundred dollars.

1894, 414, § 7. 1904, 242, §§ 7, 8. G. L. 140, § 40.

#### MISCELLANEOUS PROVISIONS.

**SECTION 51. Massage and Vapor Baths Regulated.** No person shall practice massage, or conduct an establishment for the giving of vapor, pool, shower or other baths for hire or reward, or advertise or hold himself out as being engaged in the business of massage or the giving of said baths without receiving a license therefor from the board of health of the town where the said occupation is to be carried on; provided, that a person registered as a barber or apprentice under the provisions of section eighty-seven H or section eighty-seven I of chapter one hundred and twelve or as a hairdresser, operator, or a student under the provisions of sections eighty-seven T to eighty-seven JJ, inclusive, of said chapter one hundred and twelve may practice facial and scalp massaging without taking out a license as provided in this section. The board of health may grant the license upon such terms and conditions, and may make such rules and regulations in regard to the carrying on of the occupation so licensed, as it deems proper, and may revoke any license granted by it for such cause as it deems sufficient, and without a hearing; provided, that a person licensed to massage or to conduct an establishment for the giving of vapor, pool, shower or other baths in any town may, at the request of a physician, attend patients in any other town in the commonwealth without taking out an additional license.

1911, 443, § 1. 1935, 528, § 3. 1947, 253.  
1912, 155, § 1. 1936, 55, § 1. G. L. 140, § 51.  
1932, 275. 1941, 626, § 12.

**SECTION 52. Officers may enter Premises.** Members of the police department of any town may enter and inspect any premises in that town used for massage or the giving of vapor baths.

1911, 443, § 2. 1935, 428, § 4. Op. A. G. (1939) 85.  
G. L. 140, § 52. Op. A. G. (1936) 55. Op. A. G. (1941) 56.

**SECTION 53. Penalty.** Whoever violates any provision of section fifty-one, or any rule or regulation made under authority thereof, or prevents or hinders any member of a police force from exercising the authority conferred upon him by section fifty-two, shall be punished by a fine of not more than



one hundred dollars or by imprisonment for not more than six months, or both.

1911, 443, § 3.

G. L. 140, § 58.

### SMOKE NUISANCE.

**SECTION 132. Smoke Nuisance.** In a town, except those mentioned in chapter six hundred and fifty-one of the acts of nineteen hundred and ten, which accepts sections one hundred and thirty-two to one hundred and thirty-six, inclusive, or has accepted corresponding provisions of earlier laws by a vote of the city council or of the voters of a town at an annual town meeting, the emission, except by locomotive engines or by brick or pottery kilns, into the open air of dark smoke or dense gray smoke for more than five minutes continuously, or the emission, except as aforesaid, of such smoke during ninety minutes of any continuous period of twelve hours, within a quarter of a mile of a dwelling, is hereby declared a nuisance unless such emission is under a permit which may be granted annually by the aldermen of cities or the selectmen of towns.

1901, 427, §§ 1,  
5, 9, 10.  
R. L. 102, §§ 122,  
127.

1908, 187.

For penalty see § 136.

G. L. 140, § 132.

**SECTION 133. Permits.** Such permit shall be signed by the mayor or by a majority of the board of selectmen and by the city or town clerk, and be recorded in the office of said clerk. It shall name the person to whom it is granted, and definitely and clearly describe the location and limits of the premises to which it applies, and shall remain in force until the first day of May next after its date, unless sooner forfeited or rendered void. Notice of applications for such permits shall be published at the expense of the applicant in the manner prescribed by section fifteen A of chapter one hundred and thirty-eight. The board granting the permits may establish fees for their issue, not exceeding one dollar each, to be paid to the treasurer of the municipality.

1901, 427, §§ 5, 6, 8.  
R. L. 102, § 123.

G. L. 140, § 133.

1939, 451, § 56.

**SECTION 134. Objections to Permits.** If, before the expiration of the ten days following the publication of the notice, the owner of a dwelling within a quarter of a mile of the premises described therein gives written notice to the board having authority to grant the permit that he objects to the granting thereof, it shall not be granted, unless said board, after a public hearing of the persons interested, decides that no just ground for objection exists, or that the public good requires that it be granted; but the granting of a permit shall not prejudice any right of damages which a person may have against the person receiving the permit. If a permit is granted after objection is filed, and without a hearing as aforesaid, or without proper advertisement as herein provided, the owner of such dwelling may apply to the district court within whose jurisdiction the premises are situated for a hearing in the case; and said court, if it appears that said permit was granted without compliance with this and the preceding section, shall revoke the permit, and notice

of such revocation shall be sent to the board granting the permit and to the person receiving it.

1901, 427, § 7.

R. L. 102, § 124.

G. L. 140, § 184.

**SECTION 135. Enforcement.** The mayor or selectmen may, in January of each year, designate some proper persons who shall be charged with the enforcement of sections one hundred and thirty-two to one hundred and thirty-six, inclusive, during the year in which they are appointed; but such designation shall be subject to change at any time. An officer so designated may apply to the supreme judicial or superior court for an injunction to restrain the further operation of any furnace or steam boiler which is being operated in such a manner as to create a nuisance as above defined; and said court may, after hearing the parties, enjoin the further operation of such furnace or boiler.

1901, 427, §§ 3, 4.

R. L. 102, § 125.

G. L. 140, § 185.

**SECTION 136. Penalty.** Whoever commits the nuisance defined in section one hundred and thirty-one D or section one hundred and thirty-two, or suffers the same to be committed on any premises owned or occupied by him, or in any way participates in committing the same, shall be punished by a fine of not more than one hundred dollars for each week during any part of which such nuisance exists. This section shall not apply to any person who commits such a nuisance, or suffers the same to be committed, while acting as an employee.

1901, 427, § 2.  
R. L. 102, § 126.

G. L. 140, § 136.

1947, 492, § 6.

**SECTION 136A. Dogs. Definitions.** The following words and phrases as used in sections one hundred and thirty-seven to one hundred and seventy-five, inclusive, unless the context otherwise requires, shall have the following meanings:

"Director", the director of the division of accounts of the department of corporations and taxation.

"Dog fund", the fees, fines and reimbursements collected in connection with the licensing of dogs and the enforcement of said sections.

"Dog officer", any officer appointed under said sections to enforce the laws relating to dogs.

"Keeper", any person, corporation or society, other than the owner, harboring or having in his possession any dog.

"Kennel", one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

"License period", the time between April first and the following March thirty-first, both dates inclusive.

1934, 320, § 1.

1943, 111, § 1.

### DOGS.

**SECTION 145. License to have Description of Hydrophobia printed on it.** Every license issued to the owner of a dog shall have a description of the symptoms of rabies printed thereon. Such descrip-



tion shall be supplied by the department of public health to the director of accounts upon application therefor.

1877, 167, § 4.  
P. S. 102, § 88.

1886, 101, § 4.  
R. L. 102, § 182.

G. L. 140, § 145.  
1932, 289, § 3.

**SECTION 145A. Boards of Health to furnish Anti-rabic Vaccine.** The board of health of a city or town shall, upon application, furnish free of charge to any resident thereof who has been exposed to rabies, or may have been so exposed, antirabic vaccine and antirabic treatment, in accordance with rules and regulations which the department of public health is hereby authorized to make. Except in Boston, such person shall have the right to select his own physician, who shall be paid by the city or town at a rate established as hereinafter provided, and the fact that a physician is a member of a board of health shall not disqualify him from being so selected and from being paid by the city or town for his services. Boards of health shall establish rates of compensation for such treatment. A city or town so furnishing vaccine and treatment shall be reimbursed for the cost thereof, not exceeding fifty dollars in the case of any one person, from the dog fund of the county in which is situated the city or town where the person treated was exposed to rabies, except that if such exposure occurred in Suffolk county such reimbursement shall be made by the city or town where such person was exposed to rabies, and except that if such vaccine and treatment are given by the board of health of a city or town because of a bite by or other exposure to rabies from a dog required to be licensed therein, the city or town shall not be so reimbursed, unless such dog is licensed at the time of such bite or other exposure. No such reimbursement shall include any part of the salary of a salaried city or town physician. The county commissioners of all counties except Suffolk, acting jointly, or the county commissioners of each county, except Suffolk, shall contract for the supplying of such vaccine to the several cities and towns on the order of their respective boards of health, and shall, from time to time, notify said boards of the terms and conditions of contracts made hereunder.

No city or town for which a supply of such vaccine is provided by a contract as aforesaid shall be reimbursed hereunder for any such vaccine not purchased under such contract.

1932, 289, § 3.  
1934, 320, §§ 9, 34.

1937, 375.

1939, 42.

**SECTION 167. Dogs may be required to be muzzled.** The aldermen or selectmen may order that all dogs shall be muzzled or restrained from running at large during such time as shall be prescribed by such order. After passing such order and posting a certified copy thereof in two or more public places in the town, or, if a daily newspaper is published in such town, by publishing such copy once in such newspaper, the aldermen or selectmen may issue

their warrant to one or more of the police officers or constables of such town, who shall, after twenty-four hours from the publication of such notice, kill all dogs found unmuzzled or running at large contrary to such order, and shall receive such compensation therefor as is provided in section one hundred and fifty-one.

1877, 167, §§ 1, 2.  
P. S. 102, § 101,  
102.

R. L. 102, § 158.  
G. L. 140, § 167.

283 Mass. 163.

**SECTION 168. Service of Notice. Penalty.** The aldermen or selectmen may cause service of such order to be made upon the owner or keeper of the dog by causing a certified copy thereof to be delivered to him; and if he refuses or neglects for twelve hours thereafter to muzzle or restrain such dog as so required, he shall be punished by a fine of not more than twenty-five dollars.

1877, 167, § 3.  
P. S. 102, § 103.

R. L. 102, § 159.

G. L. 140, § 168.

**SECTION 169. Penalty on Town Officer.** A county, city or town officer who refuses or wilfully neglects to perform the duties imposed upon him by the provisions of this chapter relating to dogs shall be punished by a fine of not more than one hundred dollars, which shall be paid, except in Suffolk county, into the county treasury. Whoever is aggrieved by such refusal or neglect may report the same forthwith to the district attorney of this district.

1858, 139, § 6.  
1859, 225, § 13.  
G. S. 88, § 66.

1864, 299, § 10.  
1867, 130, § 11.  
P. S. 102, § 104.

R. L. 102, § 160.  
G. L. 140, § 169.

## BOATING AND BATHING.

**SECTION 194. License.** Cities and towns which accept this and the two following sections or have accepted corresponding provisions of earlier laws by a vote of the city council or of the town at a town meeting called for the purpose may prohibit any person from carrying on the business of renting boats or bathing suits, for use upon or in so much of the waters of any great pond as is situated within the town, without first obtaining a license so to do from the aldermen or selectmen.

1910, 400, § 1.

G. L. 140, § 194.

**SECTION 195. Posting Notices.** The aldermen of such cities and the selectmen of such towns shall cause to be posted in the immediate vicinity of such ponds notices stating that sections one hundred and ninety-four to one hundred and ninety-six, inclusive, have been accepted by the city or town.

1910, 400, § 2.

G. L. 140, § 195.

**SECTION 196. Penalty for acting without License.** Whoever in such a city or town, without obtaining a license under section one hundred and ninety-four, if one is required, engages in the business described in said section, shall be punished by a fine of not more than ten dollars.

1910, 400, § 3.

G. L. 140, § 196.



## CHAPTER 142.

## SUPERVISION OF PLUMBING.

## SECT.

1. Definitions.
2. Application of chapter.
3. Master plumbers and journeymen must be licensed, etc.
4. Rules for examinations of plumbers, etc.
5. Fees for licenses, examinations and renewals.
6. Licenses valid throughout commonwealth. Registration. Revocation of licenses, not transferable.
7. Temporary suspension of license for violation of statute, etc.
8. Rules as to construction, etc., in certain towns. Revision of rules.
9. Appointment and compensation of inspectors of plumbing. Appeal from inspector's decision, etc.
10. Inspection districts.
11. Appointment and duties of inspectors in cities, and in certain towns.
12. Appointment of additional inspectors.
13. Regulation of plumbing, fixtures, etc.
14. Sections 1 to 16 to apply to persons learning business, when.
15. Expenditure of fees.
16. Penalty for certain violations. Penalty for violation by towns.
21. Plumbing in buildings owned and used by the Commonwealth.

**SECTION 1. Definitions.** In this chapter the following words shall have the following meanings:

"Certificate", a certificate of registration issued in accordance with section three of chapter five hundred and thirty-six of the acts of nineteen hundred and nine, section two of chapter five hundred and ninety-seven of the acts of nineteen hundred and ten or chapter five hundred and eighteen of the acts of nineteen hundred and twelve.

"Examiners", the board of state examiners of plumbers appointed under section thirty-six of chapter thirteen.

"Journeyman", a person who himself does any work in plumbing subject to inspection under any law, ordinance, by-law, rule or regulation.

"Master plumber", a plumber having a regular place of business and who, by himself or journeymen plumbers in his employ, performs plumbing work.

"Practical plumber", a person who has learned the business of plumbing by working for at least two years as an apprentice or under a verbal agreement for instruction and who has then worked for at least one year as a journeyman plumber.

"Registered", registered in accordance with section three of chapter five hundred and thirty-six of the acts of nineteen hundred and nine, section two of chapter five hundred and ninety-seven of the acts of nineteen hundred and ten or chapter five hundred and eighteen of the acts of nineteen hundred and twelve.

1894, 445, § 1.	219 Mass. 33.	4 Op. A. G. 252.
R. L. 103, § 1.	225 Mass. 192.	Op. A. G. (1941) 22.
1909, 536, § 9.	248 Mass. 223.	Op. A. G. (1942) 51.
1925, 348, § 3.	281 Mass. 1.	Op. A. G. (1946) 100.
G. L. 142, § 1.	301 Mass. 87.	

**SECTION 2. Application of Chapter.** Sections one to seven, inclusive, sections eleven and twelve and sections fourteen to sixteen, inclusive, shall apply to all cities, and section thirteen shall apply to all cities except Boston; provided, that any such city except Boston may by vote of its city council exempt from the provisions of said sections any or all of its territory lying outside of the limits of the water supply of such city, or unconnected with a common sewer. Sections one, three, six and seven and sections eleven to sixteen, inclusive, shall apply to all

towns which by vote of their inhabitants accept said sections or have accepted corresponding provisions of earlier laws, and said sections, except section thirteen, shall apply to all towns which accept rules formulated by the examiners under sections eight and nine or have accepted them under corresponding provisions of earlier laws.

1895, 453.	1911, 262.	Op. A. G. (1942) 51.
R. L. 103, § 12.	G. L. 142, § 2.	Op. A. G. (1946) 99.
1909, 536, § 8.	Op. A. G. (1941) 22	296 Mass. 208.
1910, 349, § 4.		

**SECTION 3. Master Plumbers and Journeymen must be licensed, etc.** No person shall engage in the business of a master plumber or work as a journeyman unless he is lawfully registered, or has been licensed by the examiners as provided in this chapter. The license or certificate of a journeyman shall be exhibited whenever required by an inspector of plumbing. Every master plumber's license or certificate shall at all times be displayed conspicuously within his place of business.

1893, 477, § 1.	217 Mass. 134.	7 Op. A. G. 238, 239.
1894, 455, § 1.	219 Mass. 219.	Op. A. G. (1927) 102.
R. L. 103, § 1.	248 Mass. 223.	Op. A. G. (1940) 113.
1909, 536, § 4.	301 Mass. 86.	Op. A. G. (1941) 22.
G. L. 142, § 3.	4 Op. A. G. 252.	Op. A. G. (1946) 100.
213 Mass. 139.		

**SECTION 4. Rules for Examinations of Plumbers, etc.** The examiners may make such rules as they deem proper for the performance of their duties and rules governing the qualifications of applicants for examination, which shall take effect when approved by the general court and by the department of public health. They shall examine each applicant desiring to engage in the business of a master plumber or to work as a journeyman, as to his practical knowledge of plumbing, house drainage and plumbing ventilation, and subject him to a practical test satisfactory to the examiners, who if satisfied of his competence shall issue to him a license as applied for. They shall hold frequent examinations in Boston and, twice in each year, hold examinations at five other convenient places within the commonwealth. Public notice shall be given of all examinations. Every application for examination shall be in the handwriting of the applicant who shall be notified by the examiners of the time and place of examination. The examiners may, without payment of any fee, issue a probationary license in force for six months to a person who, having worked as an apprentice, or under a verbal agreement for instruction, for not less than three years, presents an application therefor with the signed endorsement of his employer agreeing to be responsible for all work done under the license and to have the licensee, at the expiration of the license, present himself for examination as a journeyman.

They shall grant a credit of five per cent to the examination standing of each applicant who has served in the army or navy of the United States in time of war and has been honorably discharged or released from active duty provided, that such

(To be inserted in place of Section 3 on page 146.)

Section 3. Master Plumbers and Journeymen must be licensed. No person shall engage in the business of a master plumber or work as a journeyman unless he is lawfully registered, or has been licensed by the examiners as provided in this chapter. Any person so licensed as a master plumber may carry on the work of a gas fitter throughout the commonwealth, notwithstanding any local ordinance, by-law, rule or regulation to the contrary. The license or certificate of a journeyman shall be exhibited whenever required by an inspector of plumbing. Every master plumber's license or certificate shall at all times be displayed conspicuously within his place of business.

1948, 382





CHAP. 142.

(To be inserted in place of Section 5, on page 147.)

Section 5. Fees for Licenses, Examination and Renewals. The fee for the first license of a master plumber shall be fifteen dollars; for any renewal thereof eight dollars; and for an examination therefor, five dollars. The fee for the first license of a journeyman shall be five dollars; for any renewal thereof three dollars; and for an examination therefor, five dollars.

1954, 200.





applicants make application within one year of their discharge or release as aforesaid or within one year of the effective date of this paragraph, whichever date is the latest.

1893, 477, §§ 2, 4.	1946, 502.	7 Op. A. G. 398.
1894, 455, §§ 2, 4.	1947, 382.	Op. A. G. (1927) 131.
R. L. 103, §§ 2, 4.	225 Mass. 192.	Op. A. G. (1928) 81.
1909, 536, § 2.	301 Mass. 87.	Op. A. G. (1942) 141.
G. L. 142, § 4.		

**SECTION 5. Fees for Licenses, Examination and Renewals.** The fee for the first license of a master plumber shall be fifteen dollars; for any renewal thereof or an examination therefor, five dollars. The fee for the first license of a journeyman shall be five dollars; for any renewals thereof, two dollars; and for an examination therefor, five dollars.

1893, 477, § 4.	1909, 536, § 3.	1925, 348, § 4.
1894, 455, § 4.	G. L. 142, § 5.	1927, 154.
R. L. 103, § 4.		

**SECTION 6. Licenses valid throughout Commonwealth. Registration. Revocation of Licenses, not Transferable.** Licenses and certificates issued by the examiners shall be valid throughout the commonwealth, but shall not be assignable or transferable. The examiners shall forward to the board of health of each town, or to the inspector of buildings having control of the enforcement of regulations relative to plumbing in such town, the names and addresses of all persons in such town to whom such licenses have been granted. Licenses shall be issued for one year and may be renewed annually on or before May first, or, in case of absence, sickness or other disability of the holder, on or before such later date as the examiners may permit, upon payment of the required fee. Each holder of a master plumber's certificate or license shall register his name and business address with said inspector of buildings if he has such control, otherwise with the board of health, in the town wherein he desires to engage in business as a master plumber. Any such license or certificate may, after notice and hearing, be suspended or revoked by the examiners upon the violation by the holder thereof of any statute, ordinance, by-law, rule or regulation relative to plumbing, upon failure or refusal of the holder thereof to comply with the rules and requirements of the examiners, or for other sufficient cause. In case of failure to renew a license as aforesaid on or before May first in any year or such later date as the examiners may permit as aforesaid, the person named therein may, upon payment of the said fee and, at the discretion of the examiners, a deferred renewal fee of ten dollars, increased by such additional fees as would have been payable had such license been continuously renewed, receive a deferred renewal thereof which shall expire on the ensuing first day of May; provided, that such renewed license shall not constitute its holder a licensee for any period preceding its issue.

1893, 477, § 4.	1928, 76, § 1.	Op. A. G. (1928) 81.
1894, 455, § 4.	1931, 193.	Op. A. G. (1941) 22.
R. L. 103, § 4.	1934, 347, § 2.	Op. A. G. (1946) 100.
1909, 536, § 4.	5 Op. A. G. 516.	281 Mass. 1.
G. L. 142, § 6.	Op. A. G. (1927) 131.	301 Mass. 90.

**SECTION 7. Temporary Suspension of License for Violation of Statute, etc.** If in the opinion of such inspector of buildings, if any, otherwise of the board of health, of a town, the holder of a license or cer-

tificate violates any statute, ordinance, by-law, rule or regulation relative to plumbing, the said inspector or board of health of the town where such violation is committed shall give notice thereof to the examiners.

1909, 536, § 4.	1928, 76, § 2.	Op. A. G. (1941) 26.
G. L. 142, § 7.	Op. A. G. (1927) 131.	Op. A. G. (1946) 100.

**SECTION 8. Rules as to Construction, etc., in Certain Towns. Revision of Rules.** Upon petition of the board of health of any town which has not prescribed regulations relative to plumbing under section thirteen or corresponding provisions of earlier laws, the examiners shall formulate rules relative to the construction, alteration, repair and inspection of all plumbing work within such town, which rules, when approved by the department of public health and accepted by the said board of health and published once a week for three consecutive weeks in some newspaper published in said town, shall have the force of law. Such rules may be revised by the examiners upon petition of the board of health.

1909, 536, § 5.	Op. A. G. (1928) 81.	Op. A. G. (1941) 22.
G. L. 142, § 8.	8 Op. A. G. 274, 294.	Op. A. G. (1946) 99.

**SECTION 9. Appointment and Compensation of Inspectors of Plumbing. Appeal from Inspector's Decision, etc.** Within thirty days after rules have taken effect as provided in the preceding section, the local board of health shall appoint an inspector of plumbing having the qualifications and duties specified in sections eleven and twelve to hold office for three years unless, after hearing, sooner removed for cause. He shall receive from the town compensation to be fixed by the appointing board, subject to the approval of the selectmen. Appeal from a decision of such inspector may be made to the examiners within ten days from the date of notice of his decision. The appellant shall deposit five dollars with the examiners to be returned if the appeal is sustained, otherwise to be paid to the commonwealth. The decision of the examiners, a copy of which shall be served on each person interested, shall be subject to the approval of the department of public health and to review by the superior court.

1909 536, § 5	G. L. 142, § 9.
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**SECTION 10. Inspection Districts.** Two or more towns may unite in forming an inspection district, the expense thereof to be paid on such basis as may be agreed upon by the boards of health thereof.

1909, 536, § 6.	8 Op. A. G. 294.	Op. A. G. (1946) 100.
G. L. 142, § 10.	Op. A. G. (1942) 29.	

**SECTION 11. Appointment and Duties of Inspectors in Cities and in Certain Towns.** The said inspector of buildings, if any, otherwise the board of health, of each city and town, shall, within three months after it becomes subject to sections one to sixteen, inclusive, appoint from the classified civil service list one or more inspectors of plumbing who shall be practical plumbers and shall have had practical experience either as master plumbers, or journeymen, continuously, during five years next preceding their appointment; provided, that any time spent in service in the army, navy or marine corps of the United States in time of war or insurrection shall be deemed a part of the period of continuous practical experi-



ence so required. Such inspector of buildings or board may remove them subject to chapter thirty-one and shall, subject to approval of the city council or selectmen, fix their compensation which shall be paid by the city or town. Said inspectors of plumbing shall inspect all plumbing in process of construction, alteration or repair for which permits are granted within their respective cities and towns and shall report to their appointing power or board violations of any law, ordinance, by-law, rule or regulation relative to plumbing; they shall perform such other appropriate duties as may be required. The approval of plumbing by any inspectors other than those provided for by this chapter shall not be a compliance therewith.

1893, 477, § 5.	1909, 536, § 7.	6 Op. A. G. 548.
1894, 455, § 5.	1923, 194.	Op. A. G. (1941) 22.
1895, 458.	G. L. 142, § 11.	Op. A. G. (1946) 100.
R. L. 103, § 5.	1945, 703, § 11.	

**SECTION 12. Appointment of Additional Inspectors.** No inspector of plumbing shall inspect or approve any plumbing work done by himself, his employer, employee or one employed with him, but in a city or town subject to sections one to sixteen, inclusive, the said inspector of buildings, or the board of health, shall in the manner provided in the preceding section appoint an additional inspector of plumbing as therein provided, who shall inspect plumbing so done. Said additional inspector may act in the absence or disability of the local inspector and for his services shall receive like compensation. This section shall not apply to any city or town establishing an annual salary for the inspector of plumbing, and in such city or town the inspector of plumbing shall not engage in or work at the business of plumbing.

1894, 455, § 6.	G. L. 142, § 12.	296 Mass. 208.
R. L. 103, § 6.	Op. A. G. (1941) 22.	

**SECTION 13. Regulation of Plumbing, Fixtures, etc.** Each city, except Boston, and each town which has five thousand inhabitants or more or which has a system of water supply or sewerage, shall by ordinance or by law prescribe regulations for the materials, construction, alteration and inspection of all pipes, tanks, faucets, valves and other fixtures by and through which waste water or sewage is used and carried; and shall provide that such pipes, tanks, faucets, valves or other fixtures shall not be placed in any building in such city or town, except in accordance with plans approved by said inspector of buildings, if any, otherwise by the board of health, and shall further provide that no plumbing shall be done, except to repair leaks or, in any town in the county of Barnstable, to turn on or shut off the water supply for a single family dwelling, without a permit first being issued therefor, upon such terms and conditions as such cities or towns shall prescribe. This section shall not prevent boards of health from making such regulations relative to plumbing and house drainage authorized by law prior to July sixth, eighteen hundred and ninety-four, as are not inconsistent with any ordinance or by-law made under authority of this section.

1888, 105, § 1.	R. L. 103, § 7.	1934, 284.
1893, 477, § 6.	G. L. 142, § 13.	Op. A. G. (1941) 22.
1894, 455, § 7.	1 Op. A. G. 290.	Op. A. G. (1946) 100.
1895, 453, § 1.		

**SECTION 14. Sections 1 to 16 apply to Persons learning Business, when.** Sections one to sixteen, inclusive, shall apply to all persons learning the business of plumbing when they are sent out to do the work of a journeyman.

1894, 455, § 9.	G. L. 142, § 14.	Op. A. G. (1941) 22.
R. L. 103, § 9.	7 Op. A. G. 398.	

*Superseded*

**SECTION 15. Expenditure of Fees.** Inspectors of buildings and boards of health may expend such portion of the fees collected by them under this chapter as is necessary to properly perform the duties imposed thereby, and they shall annually, before June first, make a detailed report to their respective cities and towns of all their proceedings under sections one to sixteen, inclusive, during the preceding year.

1894, 455, § 11.	G. L. 142, § 15.	Op. A. G. (1941) 22.
R. L. 103, § 11.		

**SECTION 16. Penalty for Certain Violations. Penalty for Violation by Towns.** Every person engaged in the business of a master plumber or working as a journeyman not lawfully registered or licensed, if required by this chapter; and every person engaging in or working at the business of plumbing in a city or town when forbidden so to do under section seven; and every master plumber who engages or employs any person to work as a journeyman who has not been so registered or licensed; and every person violating any provision of sections one to fifteen, inclusive, of this chapter or any ordinance, by-law, rule or regulation made thereunder shall be punished by fine not exceeding fifty dollars. Any city or town subject to the preceding sections of this chapter neglecting to comply with any of its provisions shall forfeit fifty dollars to the use of the commonwealth for each month during which such neglect continues.

1888, 105, § 2.	1909, 536, § 10.	248 Mass. 169; 223.
1893, 477, § 7.	1914, 287.	301 Mass. 88.
1894, 455, § 8.	G. L. 142, § 16.	Op. A. G. (1941) 118.
R. L. 103, § 8.	225 Mass. 192.	Op. A. G. (1946) 98.

In view of the relation between plumbing work and the public health, the act is a reasonable exercise of the police power and is constitutional. *Comm. v. Beaulieu*, 213 Mass. 138.

One licensed only as a journeyman plumber who has a place of business where he carries a stock of materials usual and necessary for doing the plumbing business, contracts to do plumbing work and employs other journeymen plumbers, is engaged in the business of a "master or employing plumber" as defined by St. 1909, c. 536, § 9, and is violating the provisions of St. 1909, c. 536, § 10, amended by St. 1914, c. 287. *Comm. v. McCarthy*, 225 Mass. 192.

**SECTION 21. Plumbing in Buildings Owned and Used by the Commonwealth.** The examiners shall formulate rules relative to the construction, alteration, repair and inspection of all plumbing work in buildings owned and used by the commonwealth, subject to the approval of the department of public health, and all plans for plumbing in such buildings shall be subject to the approval of the examiners.

1988, § 302.

CHAP. 142.

Section 13 of chapter 142 on page 148 is hereby amended by striking out, in line eight the word "waste".

1954, 157





SUPERVISION OF PLUMBING

(See page 148 - Insert in place of section 15)

SECTION 15. EXPENDITURES OF FEES COLLECTED BY INSPECTORS OF BUILDINGS AND BOARDS OF HEALTH IN CITIES AND TOWNS. Inspectors of buildings and boards of health shall annually, before June first, make a detailed report to

their respective cities or towns of all their proceedings under sections one to sixteen, inclusive, during the preceding year.

1894, 455, s 11. G.L. 142, s 15  
R. L. 103, s 11. Op. A. G. (1941) 22.  
1952, 112.





## CHAPTER 143.

INSPECTION AND REGULATION OF, AND LICENSES FOR  
BUILDINGS, ELEVATORS AND CINEMATOGRAPHS.

## SECT.

## GENERAL PROVISIONS.

## 1. Definitions.

## INSPECTION OF BUILDINGS.

42. Ventilation and sanitation. Inspection by department of public health.  
58. Concurrent jurisdiction of inferior courts.

## GENERAL PROVISIONS.

**SECTION 1. Definitions.** In this chapter the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

R. L. 104, § 14. §§ 14, 30, 39, 41; G. L. 143, § 1.  
1904, 450, § 1. 806, § 1.  
1913, 610, § 2; 655,

"Department", department of public safety.

"Public hall", any building or part thereof, except theatres, churches and schools, containing an assembly hall with a seating capacity of more than four hundred and used for public gatherings and for such entertainments, not requiring the use of scenery and other stage appliances, as the licensing officer may approve. *see next green sheet*

1946, 363, § 1.

'42-44 Op. A. G. 139.

## INSPECTION OF BUILDINGS.

**SECTION 42. Ventilation and Sanitation. Inspection by Department of Public Health.** Every public building as defined in section one, except school-houses in which public or private instruction is afforded to less than eleven pupils at one time, shall be kept clean and free from effluvia arising from any

drain, privy or nuisance, shall be provided with a sufficient number of proper water closets, earth closets or privies, and shall be ventilated in such a manner that the air shall not become so impure as to be injurious to health. If it appears to an inspector that further or different heating, ventilating or sanitary provisions are required in any such public building, in order to conform to the requirements of this section, and that such requirement can be provided without unreasonable expense, he may issue a written order to the proper person or authority, directing such heating, ventilating or sanitary provisions to be provided. A school committee, public officer or person who has charge of, owns or leases any such public building, who neglects for four weeks to comply with the order of such inspector, shall be punished by a fine or not more than one hundred dollars. The district health officers or such other officers as the department of public health may from time to time appoint shall make such examinations of school buildings subject to this section as in the opinion of the department the protection of the health of the pupils may require. This section shall not apply to Boston.

1913, 655, §§ 40, 41. G. L. 143, § 42.  
1914, 792, § 1.

3 Op. A. G. 192.

**SECTION 58. Concurrent Jurisdiction of Inferior Courts.** District courts shall have jurisdiction concurrently with the superior court of prosecutions and proceedings at law under sections three to fifty-two, inclusive.

1906, 105, § 6.  
1903, 335, § 3;

389, § 3.  
1913, 655, § 53.

G. L. 143, § 53.

## CHAPTER 144.

## TENEMENT HOUSES IN CITIES.

## SECT.

## GENERAL PROVISIONS.

1. Applications.
2. Definitions.
3. Application of certain sections.
4. Law not to be modified.
5. Water and sewer connections.
6. Power of department of public health.
7. Improvements to be made within one year after acceptance.
8. Buildings converted or altered.
9. Alterations and change in occupancy.

## NEW BUILDINGS. LIGHT AND VENTILATION.

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11. Height.
12. Yards.
13. Courts.
14. Courts to be open at top.
15. Air intakes. *see green sheet*
16. Extensions or offsets to courts.
17. Building of walls across angles in courts.
18. Placing of buildings on same lot with tenement houses.
19. Rear tenements.
20. Lighting, etc. *see green sheet*
21. Area of windows, etc.
22. Size of rooms.
23. Alcoves, etc.
24. Privacy.
25. Windows in public halls.
26. Sizes of windows in halls.

## SECT.

## SANITATION.

27. Use of basement and cellar rooms for living purposes.
28. Damp proofing etc., of cellars.
29. Spaces under floors.
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31. Sinks.
32. Construction, etc., of water-closets.
33. Plumbing.
34. Water supply.
35. Privies.

## FIRE PROTECTION.

36. Construction required.
37. Fire escapes.
38. Construction of bulkheads and scuttles.
39. Stairs and public halls.
40. Fireproof stairs and stair halls required in tenement houses of second class construction.
41. Entrance halls.
42. Shafts to be of fireproof construction.
43. Ceiling of cellar, etc.
44. Closets under first story stairs not allowed.
45. Outside cellar entrance.
46. Finish about chimneys.
47. Fire walls.
48. Roofing materials.
49. Wooden tenement houses not to be used for certain purposes above second story.



## SECT. IMPROVEMENTS IN OLD BUILDINGS.

50. Lighting and ventilation of rooms.
51. Lighting and ventilation of public halls.
52. Sinks.
53. Water-closets.
54. Removal of cesspools, etc.
55. Basements and cellars to be damp proof, etc.
56. Door in shafts and courts.
57. Construction of fire escapes.
58. Means of egress.

## 59. ALTERATIONS OF OLD BUILDINGS.

## MAINTENANCE AND USE.

60. Lighting of public halls in the daytime.
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62. Water-closets in cellars.
63. Water-closet accommodations.
64. Occupation of basement and cellar rooms for living purposes.
65. Floors around water-closets and sinks.
66. Repairs.
67. Water supply.
68. Buildings to be kept clean and free from refuse matter, etc.
69. Walls of courts to be whitened, etc.
70. Walls and ceilings of rooms, etc.
71. Wall paper.
72. Receptacles for ashes, etc., to be provided.
73. Certain uses prohibited.
74. Not to be used for storage of combustible materials, etc.
75. Bakeries and fat boiling.
76. Other dangerous businesses.
77. Janitor or housekeeper.
78. Overcrowding.
79. Letting of lodgings regulated.
80. Board of health may order repairs, etc.
81. Infected and uninhabitable houses to be vacated.
82. Repair of fire escapes.
83. Scuttles, bulkheads, etc., to be easily accessible at all times, etc.

## REQUIREMENTS AND REMEDIES.

84. Inspector of buildings. Appointment.
85. Permit for construction or alteration of tenement house.
86. Building not to be occupied until after approval, etc.
87. Enforcement of provisions.
88. Building erected, etc., in violation of this act to be deemed a common nuisance, etc.
89. Penalties.
90. Action of board of health, etc., may be reviewed by superior court.
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92. Liens.
93. Notice of pendency of action to be filed, etc.
94. Owner's name, etc., to be registered, etc.
95. Service of notices.
96. Service of summons.
97. Certain names and addresses to be indexed, etc.
98. Repeal.

## GENERAL PROVISIONS.

**SECTION 1. Application.** This chapter shall apply to all cities except Boston which accept it or have accepted corresponding provisions of earlier laws by a vote of the city council with the approval of the mayor.

1913, 86, § 98.

G. L. 144, § 1.

**SECTION 2. Definitions.** The following words used in this chapter shall have the following meanings:

"Acceptance of this chapter" shall include the acceptance of corresponding provisions of earlier laws.

Op. A. G. '42-44, 41.

"Alcove", any part of a room partitioned off by fixed or movable partitions of any material, by curtains or portieres, or by other contrivance or device, and intended or designed to be used for living purposes.

"Basement", a story partly underground but having not less than one half its height above the level of the curb, and also having one half its height in every part above the level of the adjoining ground.

"Cellar", a story more than one half below the level of the curb or adjoining ground.

"Corner lot", a lot situated at the junction or intersection of two streets each not less than sixteen feet in width, but any lot the outer angle of which

is over one hundred and twenty-five degrees shall not be considered a corner lot. Any portion of the width of the front of such lot distant more than fifty feet and any portion of the depth of such lot distant more than one hundred feet from such a junction or intersection shall not be regarded as part of a corner lot, but shall be subject to the provisions of this chapter respecting interior lots.

"Court", an open unoccupied space, other than a yard or front yard, on the same lot with a tenement house. A court extending to the street, yard, front yard or side yard is an "outer court". A court not so extending is an "inner court".

"Existing", existing at the time of the acceptance of this chapter or corresponding provisions of earlier laws.

"First class construction". A tenement house of first class construction is one constructed of fire-proof material throughout, with floors built of steel or re-enforced concrete beams, filled in between with terra cotta or other masonry arches or with concrete or re-enforced concrete slabs; wood may be used only for under and upper floors, windows and door frames, sashes, doors, interior finish, hand rails for stairs, necessary sleepers bedded in cement, and for isolated furrings bedded in mortar. There shall be no air space between the top of any floor arches and the floor boarding.

"First story", the lowest story, the ceiling of which is six feet or more above both the level of the curb, and the level of the adjacent ground. In determining the height of any building by stories, the stories thereof beginning with such first story shall be numbered upward.

"Front" of a lot, that boundary line which borders on the street. In the case of a corner lot the owner may elect by statement on his plans either street boundary line as the front.

"Half story" or "attic", any story included in the roof, the cubic contents of which, exclusive of cock-loft or blind attic not exceeding three feet in height at the highest point, is not more than sixty per cent of the cubic contents of the first story.

"Height", the perpendicular distance measured in a straight line from the curb level, or from the finished grade line of the lot where such grade is higher than the curb, to the mean height above the eaves of any sloping roof, and to the highest point of the roof beams in the case of flat roofs, except that in the case of flat roofs a parapet exceeding three feet in height shall be considered a part of the height of the building, the measurements in all cases to be taken through the centre of the street front of the house. Where a building is on a corner lot and there is more than one grade or curb level, the measurements shall be taken from the centre of the front on the street having the lowest elevation.

"Interior lot", any lot other than a corner lot.

"Lot", the plot of ground covered by and adjacent to a tenement house or dwelling house and devoted exclusively to the purposes of such house, as shown by the plan of such lot furnished to the building department pursuant to section eighty-five.

"Nuisance" includes all public nuisances as known at common law or in equity jurisprudence; and furthermore, whatever is dangerous to human life or

INSPECTION AND REGULATION OF, AND LICENSES FOR  
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CHAP. 143

(To be inserted after section 1, on page 149.)

Section 15. Construction of Public Buildings. No building which is designed to be used, or in which alteration shall be made for the purpose of using it, or continuing its use, in whole or in part, as a public building, or as a factory, workshop or mercantile or other establishment, and to have accommodations for ten or more employees, or as a hospital, sanatorium, convalescent or nursing home, or boarding home for the aged housing three or more patients, licensed by and under the supervision of the department of public health, grandstand, stadium, bleacher or arena, and no building more than two stories in height designed to be used above the second story, or in which alteration shall be made for the pur-

pose of using it, or continuing its use, in whole or in part, as an office building, dormitory, hotel, family hotel, apartment house, boarding house, lodging house or tenement house, and to have eight or more rooms above said story, shall be erected, and no alteration shall be made therein, until a copy of the plans and specifications thereof has been deposited with a supervisor of plans by the person causing its erection or alteration or by the architect thereof.

1888, 316, s. 1.

R.L. 104, s. s 22, 52.

1892, 419, s. 138.

1913, 655, s. s 15, 52.

1893, 199, s. 1.

1943, 544, s. 3.

1894, 382, s. 3.

1947, 645, s. 1.

481, s. s 25, 39.

1949, 539.

1952, 502.





INSPECTION AND REGULATION OF, AND LICENSES FOR  
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CHAP. 143

(To be inserted after section 15, on page 149.)

Section 21. Fire Escapes, Exits, etc. The owner, lessee or mortgagee in possession of any building in whole or in part used as a public building or as a factory, workshop, mercantile or other establishment, and which has accommodations for ten or more employees, or of a hospital, sanatorium, convalescent or nursing home, or boarding home for the aged, licensed by and under the supervision of the department of public health, a grandstand, stadium, bleacher or arena, or of an office building, dormitory, hotel, family hotel apartment house, boarding house, lodging house or tenement house which has eight or more rooms above the second story, or in which ten or more persons are accommodated, lodge or reside above the second story, to which building sections fifteen to sixty, inclusive, apply, shall provide such building with proper egresses or other means of escape from fire sufficient for the use of all persons employed, lodged or resident therein; provided, that in all buildings subject to this section, other than mercantile establishments, hotels and buildings used solely for office purposes, such egresses

or means of escape from fire shall also be sufficient for the use of all persons accommodated or assembled therein; and, in such mercantile establishments, hotels, and buildings used solely for office purposes, shall be sufficient, to the greatest extent compatible, in the opinion of the inspector, with the reasonable use thereof, for the use of all persons accommodated or assembled therein; and provided, further, that no owner, lessee or mortgagee in possession of a building subject to any provision of this section shall be deemed to have violated this provision unless he has been notified in writing by an inspector as to what additional egresses or means of escape from fire are necessary, and for thirty days has neglected or refused to provide the same.

1677, 214, ss 4, 5.	R. L. 104, ss 25, 53.
1680, 197.	1907, 503, s 1.
PS 104, ss 15, 16, 18-20, 23.	1913, 655, ss 20, 52.
1682, 266, ss 1, 2.	1917, 156, s 1.
1883, 261, s 2.	1943, 544, s 3.
1366, 207, 426 s 1.	1943, 546, s 2.
1694, 481, s 24.	1945, 536.
1900, 335, s 1.	1947, 645, s 2.
	1952, 509.



INSPECTION AND REGULATIONS OF, AND LICENSES FOR  
BUILDINGS, ELEVATORS AND CINEMATOGRAPHS.

CHAP. 143

(To be inserted after section 21, on page 149.)

Section 33. Inspectors of Buildings Authorized to Enforce Laws Relating to Safety of Persons in Buildings. In every city, town and district wherein there is in force a building code, so called, established under authority of section three or corresponding provisions of earlier law or established by or under authority of any other provision of law, the provisions of sections fifteen, seventeen, twenty, twenty-one, twenty-one A, twenty-one B, twenty-one C, twenty-four, twenty-five, twenty-eight, twenty-nine, thirty, thirty-one, forty-two, forty-three, forty-nine, fifty-one, fifty-two, fifty-three, fifty-four, fifty-seven and fifty-nine relative to buildings other than churches, theatres, special halls, public halls, schoolhouses and buildings owned or occupied by the commonwealth or by any county, or other than hospitals, sanatoria, convalescent or nursing homes, or boarding homes for the aged, licensed by and under the supervision of the department of public health, hotels,

family hotels, grandstands, stadia, bleachers or arenas, shall, unless otherwise provided, be enforced by the inspector or inspectors of buildings of such city, town or district and the terms "supervisor of plans", "chief of inspections" and "inspector", as used in said sections fifty-five and fifty-six, shall include an inspector of buildings of such city, town or district, and shall be enforced in accordance with the regulations authorized by section fifty-four; in all other cities and towns the provisions of said sections shall be enforced in accordance with their specific terms.

1882, 266, s 1.	1945, 533, s 3.
1888, 426, s 11.	1946, 363, s 7.
1894, 461, ss 36, 39.	1947, 645, s 3.
R.L. 104, ss 53, 54.	1948, 439, s 2.
1913, 655, ss 29, 52.	1952, 509.
1943, 544, s 3.	

detrimental to health, whatever building or erection, or part or cellar thereof, is overcrowded with occupants or is not provided with adequate ingress or egress to and from the same or apartments thereof, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its or their intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally in contemplation of this chapter, nuisances; and such nuisances are hereby declared unlawful.

"Occupied spaces". Porches, platforms, except those on the first story when the basement is not occupied or designed or intended to be occupied for habitation, and outside stairways, except fire escapes and steps leading to the first story, shall be considered as part of the building and not as part of the yard or courts or unoccupied areas.

"Public hall", a hall, corridor or passageway not within an apartment.

"Rear" of a lot, the side opposite to the front. In the case of a corner lot with streets on three sides, or of a triangular or irregularly shaped lot abutting on two streets at their junction or intersection the rear shall be a side not bordering on a street.

"Second class construction". A tenement house of second class construction is one of which the exterior and party walls are fireproof and conform to the requirements of first class construction as defined by law or by ordinance of the city in which it is situated.

"Stair hall" includes the stairs, stair landings and those parts of the public halls through which it is necessary to pass in going from the entrance floor to the roof.

"Street" includes any right of way dedicated to public use, any public alley, or railroad right of way sixteen feet or more in width, any cemetery or public park.

"Tenement house", any house or building, or part thereof, which is rented, leased, let or hired out, to be occupied, or is occupied, or intended, arranged or designed to be occupied as the home or residence of two or more families (a family may consist of one or more persons), living independently of each other and doing their cooking on the premises and having a common right in the halls, stairways, yard, courts, cellar, sinks, water-closets or privies, or any of them. Where the occupants of dwelling houses contiguous and vertically divided, each occupied or intended, arranged or designed to be occupied as the home or residence of one family or more, have a common right in or use in common the halls, stairways, yards, cellars, sinks, water-closets or privies, or any of them, such dwelling houses shall be deemed to be tenement houses and shall be subject to this chapter.

"Hereafter", after the acceptance of this chapter or corresponding provisions of earlier laws.

"Third class construction". A tenement house of third class construction is one of which the exterior walls or parts thereof are of combustible materials and do not conform to the requirements of first class construction.

"Yard", an open unoccupied space on the same lot with the tenement house between the extreme rear line of the house and the extreme rear line of the lot. A "front yard" is an open unoccupied space between

the front line of the house and the front line of the lot. A "side yard" is an open unoccupied space between the side line of the main part of the house and the side line of the lot and shall be deemed an outer court on the lot line.

Words used in the present tense include the future; words in the masculine gender include feminine and neuter; the word "shall" is always mandatory, and denotes that the house shall be maintained in all respects according to the mandate so long as it continues to be a tenement house; whenever the words "charter", "ordinances", "regulations", "building department", "building inspector", "health department", "board of health", "department charged with the enforcement of this chapter", or "city solicitor" occur in this chapter they shall be construed as if followed by the words, "of the city in which the tenement house is situated"; whenever the words "is occupied" are used in this chapter applying to any building, such words shall be construed as if followed by the words, "or is intended, arranged or designed to be occupied."

1918, 786, § 2.

G. L. 144, § 2.

**SECTION 3. Application of Certain Sections.** Unless otherwise specifically provided therein, sections nine to forty-nine, inclusive, shall apply only to tenement houses erected after the acceptance of this chapter, and sections fifty to fifty-nine, inclusive, only to tenement houses erected prior to such acceptance.

G. L. 144, § 3.

**SECTION 4. Law not to be modified.** This chapter shall be held to provide the minimum requirements adopted for the protection of the health and safety of the community. Nothing in this chapter shall be construed as prohibiting any city from enacting from time to time supplementary ordinances imposing further restrictions, but no city authority shall have power to minimize, avoid or repeal any provision of this chapter.

1918, 786, § 5.

G. L. 144, § 4.

Op. A. G. '42-44, 41.

**SECTION 5. Water and Sewer Connections.** The provisions of this chapter with reference to sewer connection and water supply shall be deemed to apply only where connection with a sewer and with a water main is or becomes practicable. The questions of the practicability of such sewer and water connections shall be decided by the local board of health, or by the department of public health upon request of the local board.

1918, 786, § 6.

1919, 350, § 96.

G. L. 144, § 5.

1914, 792, § 1.

**SECTION 6. Power of Department of Public Health.** The department of public health may examine into the enforcement of the laws relating to tenement houses in any city. Whenever so required by the governor, it shall make such an examination and shall report the result thereof to the governor within the time prescribed by him.

1918, 786, § 7.

919, 350, § 96.

G. L. 144, § 6.

1914, 792, § 1.

**SECTION 7. Improvements to be made within One Year after Acceptance.** In tenement houses erected prior to the acceptance of this chapter by a city, all



improvements specifically required thereby shall be made within one year thereafter, or at such earlier time as may be fixed by the building inspector.

1913, 786, § 8.

307, Mass. 188.

G. L. 144, § 7.

**SECTION 8. Buildings converted or altered.** A building not a tenement house, if converted or altered to such use after the acceptance of this chapter, shall thereupon become subject to all the provisions thereof affecting tenement houses erected thereafter.

1913, 786, § 3.

G. L. 144, § 3.

**SECTION 9. Alterations and Change in Occupancy.** No tenement house shall at any time be altered so as to be in violation of any provision of this chapter. If any tenement house, whenever erected, or any part thereof is occupied by a number of families in excess of the number specified in this chapter, or is erected or altered or occupied contrary to law, such tenement house shall be deemed an unlawful structure, and the board of health may cause such building to be vacated; and it shall not again be occupied until it or its occupation, as the case may be, has been made to conform to the law, and a written permit is obtained from the board of health.

1913, 786, § 4.

G. L. 144, § 9.

#### NEW BUILDINGS, LIGHT AND VENTILATION.

**SECTION 10. Distance from Side Lot Line.** No tenement house of third class construction shall be erected, enlarged or placed with the side walls, bay windows or other projections, except cornices, belt courses and window-sills, nearer than five feet to the line of any adjoining lot, nor shall any lot upon which such a tenement house stands be so changed in size as to bring the side walls or bay windows or other projections, except as aforesaid, nearer than five feet to the line of any adjoining lot. But any such tenement house may be constructed to the lot line if protected by a fire wall as provided in section forty-seven.

If the side walls of any tenement house of first or second class construction are built to the lot line there shall be no windows or any other openings in such walls.

1913, 786, § 9.

G. L. 144, § 10.

**SECTION 11. Height.** No tenement house shall have more than one legally habitable story for each full ten feet of the width of the street, unless such house be set back from the street a distance equal to the excess of its height over that permitted at the street line. On a corner lot the height shall be governed by the width of the wider street, as above, but this height shall not extend along the narrower street a distance greater than twice the width of said street.

1913, 786, § 10.

G. L. 144, § 11.

**SECTION 12. Yards.** Behind every tenement house there shall be a yard extending across the entire width of the lot and at every point open from the ground to the sky unobstructed, except as hereinafter provided. Every part of such yard shall be directly accessible from every other part thereof. The depth of said yard shall be measured from the

extreme rear of the house toward the rear line of the lot. Where the rear of the lot abuts on a public alley or right of way dedicated to public use for the full width of the lot, the depth of the lot may be measured to the middle line of such alley or right of way; where there is no such alley or right of way the measurements shall be taken to the rear lot line. If the tenement house is three stories or less in height the depth of the yard in the case of interior lots shall be not less than fifteen feet, and the depth of the yard in the rear of corner lots shall be not less than ten feet. If the tenement house exceeds three stories in height, the depths above prescribed in the case of interior lots shall be increased five feet and in the case of corner lots shall be increased two feet for each story above three stories. When a lot upon which a tenement house is built is bounded on every side by a street the yard may be omitted.

1913, 786, § 11.

G. L. 144, § 12.

**SECTION 13. Courts.** The sizes of all courts shall be proportionate to the height of the building. No court shall be less in any part than the minimum sizes prescribed in this section. The minimum width of a court for a two story building shall be ten feet, and the width shall increase two feet for each additional story. The length of an inner court shall never be less than twice the minimum width prescribed by this section. The length of an outer court shall never be greater than twice its minimum width unless provided at the inner end with an air intake at the bottom, as prescribed in section fifteen, which shall communicate directly with the street or yard or front yard. The minimum width for an outer court on the lot line extending from the street or front yard to the yard shall be ten feet for a three story building, and the width shall increase one foot for each additional story.

1913, 786, § 12.

G. L. 144, § 13.

**SECTION 14. Courts to be open at Top.** No court shall be covered by a roof or skylight, but every court shall be at every point open from the ground to the sky unobstructed.

1913, 786, § 13.

G. L. 144, § 14.

**SECTION 15. Air Intakes.** In every tenement house four stories or under in height, every inner court shall be provided with one or more horizontal air intakes at the bottom. Such intakes shall communicate directly with the street, front yard or yard, and shall consist of a fireproof passageway not less than three feet wide and seven feet high which shall be left open, or be provided with an openwork gate at each end, and such gate shall not be covered over in any way either by glass or any other material. If the tenement house is over four stories in height there shall be two or more such intakes, one communicating with the street or front yard and one with the yard.

1913, 786, § 14.

G. L. 144, § 15.

**SECTION 16. Extensions or Offsets to Courts.** Extensions or offsets to courts are permitted for the purpose of lighting bathrooms, water-closets and corridors only, but no such extension or offset shall be less than six feet in width in any part; its depth



may be less than but never greater than its width. Such dimensions shall be deemed the minimum dimensions for a two story house, and shall increase one foot for each story above two stories.

1913, 786, § 15.

G. L. 144, § 16.

**SECTION 17. Building of Walls across Angles in Courts.** Nothing in the foregoing sections concerning courts shall be construed as prohibiting the building of walls across the angles of said courts to contain windows; provided, that the running length of the wall containing such windows does not exceed six feet.

1913, 786, § 16.

G. L. 144, § 17.

**SECTION 18. Placing of Buildings on Same Lot with Tenement Houses.** If any building is thereafter placed on the same lot with a tenement house, whenever erected, there shall always be maintained between the said buildings an open unoccupied space extending upward from the ground and extending across the entire width of the lot. Except as otherwise provided by special acts, such space shall never be less than twenty-five feet in depth, and where either building exceeds three stories in height the depth of such open space shall be increased five feet for each story above three. No building of any kind shall thereafter be placed upon the same lot with a tenement house, whenever erected, so as to diminish the minimum size of courts or yards as hereinbefore prescribed, except that where an alley not less than ten feet wide abuts on the rear of the lot, a rear building, if not used for tenement house or stable or manufacturing purposes, may be built up to the rear line of the lot; provided, that it does not exceed one story in height and that the space between it and the front building is maintained as required by this section. If any tenement house is erected upon any lot upon which there is already another building, it shall comply with this chapter, and, in addition, the space between the said building and the said tenement house shall be of such size and arranged in such manner as is prescribed in this section, the height of the highest building on the lot to regulate the dimensions.

1913, 786, § 17.

G. L. 144, § 18.

**SECTION 19. Rear Tenements.** No tenement house shall be erected upon the rear of a lot where there is a building on the front of the said lot, nor upon the front of any such plot upon the rear of which there is a tenement house whenever erected or a stable or building used for manufacturing purposes. This provision shall not apply to tenement houses abutting on two streets and situated on the outside corner of the lot.

1913, 786, § 18.

G. L. 144, § 19.

**SECTION 20. Lighting, etc.** Every apartment shall have at least one room with a window opening directly upon the street or yard, and every room shall have at least one window opening directly upon the street or upon a yard or court of the dimensions specified in this chapter, except that kitchenettes, pantries, water-closet compartments and bathrooms may have such window opening upon an offset to a court, as provided in section sixteen, and such win-

dow shall be so located as properly to light all parts of such rooms.

1913, 786, § 19.

G. L. 144, § 20.

**SECTION 21. Area of Windows, etc.** The total area of the windows between stop beads in each room, including kitchenettes, water-closet compartments and bathrooms, shall be at least one seventh of the floor area of the room, and the top of at least one window shall be not less than seven feet six inches above the floor, and the upper half of it shall be made so as to open the full width. No such room shall have less than twelve square feet of window area measured between stop beads, except that in kitchenettes, water-closet compartments and bathrooms such windows shall be not less than six square feet in area between stop beads.

1913, 786, § 20.

G. L. 144, § 21.

**SECTION 22. Size of Rooms.** There shall be in each apartment at least one room containing not less than one hundred and fifty square feet of floor area, and every other room, except kitchenettes, water-closet compartments and bathrooms, shall contain not less than eighty-four square feet of floor area. All rooms shall be in every part not less than eight feet six inches from the finished floor to the finished ceiling, except that a half story room need be eight feet six inches in height in but one half of its area.

1913, 786, § 21.

G. L. 144, § 22.

**SECTION 23. Alcoves, etc.** An alcove in any room shall be separately lighted and ventilated as provided for rooms in the foregoing sections. No part of any room in a tenement house, whenever erected, shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition, or other contrivances or device so as to make an alcove, unless the part of the room so enclosed or subdivided shall contain a separate window, as herein required, and shall have a floor area of not less than eighty-four square feet.

1913, 786, § 22.

G. L. 144, § 23.

**SECTION 24. Privacy.** In each apartment there shall be access to every living room and bedroom, and to at least one water-closet compartment without passing through a bedroom or bathroom or water-closet compartment.

1913, 786, § 23.

G. L. 144, § 24.

**SECTION 25. Windows in Public Halls.** Every public hall and stair hall shall have at each story at least one window opening directly upon the street or upon a yard or court of the dimensions specified in this chapter. Such window in a public hall shall be at the end of the hall with the natural direction of the light parallel to the hall's axis. Any part of a public hall which is in any way shut off from any other part of the hall shall be deemed a separate hall within the meaning of this section.

1913, 786, § 24.

G. L. 144, § 25.

**SECTION 26. Sizes of Windows in Halls.** The windows provided to light and ventilate each public hall and stair hall, or part thereof, shall contain not less than twelve square feet clear opening, measured between stop beads. The top of one such window



shall be not less than seven feet six inches above the floor, and the upper half thereof shall be made so as to open the full width. A sash door shall be deemed the equivalent of a window in this and the foregoing section; provided, that said door contains a clear opening of the size prescribed for such windows. In every tenement house of three or more stories, whenever erected, there shall be in the roof directly over each stair well a ridge ventilator having a minimum opening for forty square inches and with fixed or movable louvers.

1913, 786, § 25.

G. L. 144, § 26.

### SANITATION.

**SECTION 27. Use of Basement and Cellar Rooms for Living Purposes.** No room in the cellar or basement shall be constructed, altered, converted, or occupied for living purposes, unless, in addition to the other requirements of this chapter, all of the following conditions are complied with: In a cellar no room shall be so occupied unless it is in every part entirely above the finished grade of the adjoining land. Such occupied cellar shall be counted as a story in determining the size of courts and yard. In a basement no room shall be so occupied unless the ceiling in every part is at least four and one half feet above the curb level of the street in front of such room. Every such room shall be an integral part of an apartment containing a room opening directly upon the street or yard. There shall be appurtenant to every such apartment a separate water-closet, constructed and arranged as required by section thirty-two. All walls surrounding such room, and the floor thereof, shall be damp proof.

1913, 786, § 26.

G. L. 144, § 27.

**SECTION 28. Damp Proofing, etc., of Cellars.** The cellar floor and the walls below the ground level shall be damp proof. All cellars and basements shall be properly lighted and ventilated in all their parts to the satisfaction of the board of health.

1913, 786, § 27.

G. L. 144, § 28.

**SECTION 29. Spaces under Floors.** In any tenement house under any part of which there is no cellar, the first story shall be at least two feet above the ground beneath and that adjacent thereto, and the space beneath such floor shall be kept free and clear and shall be enclosed to prevent the accumulation of rubbish, but provided with ample ventilation and adequate drainage.

1913, 786, § 28.

G. L. 144, § 29.

**SECTION 30. Drainage of Courts, Yards, etc.** All courts, areas and yards shall be properly graded and drained and, subject to section five, connected with the street sewer. And when necessary in order to keep such premises in a sanitary condition such courts, areas or yards, or such part thereof as the board of health shall order, shall be properly paved.

1913, 786, § 29.

G. L. 144, § 30.

**SECTION 31. Sinks.** There shall be a proper sink in each apartment.

1913, 786, § 30.

G. L. 144, § 31.

**SECTION 32. Construction, etc., of Water-closets.** There shall be within each apartment a separate water-closet, located in a bathroom or in a separate compartment; provided, that where there are apartments of but one or two rooms there shall be at least one water-closet for every two such apartments, and such water-closet shall not open into any apartment but shall be accessible through a public hall, and the door thereof shall be provided with lock and keys, and such compartment and water-closet shall comply in all other respects with this chapter. Said compartment shall be not less than three feet wide, and shall be enclosed with brick, concrete, stone, tiled or plastered partitions which shall extend to the ceiling. No wooden sheathing or wainscoting shall be permitted. Every such compartment shall have a window opening directly upon the street or upon a yard or court of the minimum size prescribed by this chapter. Every water-closet compartment thereafter placed in any tenement house, whenever erected, shall be provided with proper means of lighting the same at night. The floor of every such water-closet compartment shall be made waterproof with asphalt, tile, stone or some other non-absorbing water-proof material; and such waterproofing shall extend at least six inches above the floor so that the floor can be washed or flushed out without leaking. When the water-closet fixture is located in a bathroom the floor directly beneath the fixture and extending at least one foot beyond it in each direction shall be waterproofed as above provided. No drip trays shall be permitted. No water-closet fixtures shall be enclosed with woodwork. No water-closet shall be placed out of doors nor in the cellar of any tenement house, whenever erected, except as provided in section twenty-seven or as an appurtenance to an engine or boiler room or laundry and then only in case such cellar closet is lighted and ventilated as required in this chapter for a basement room.

1913, 786, § 31.

G. L. 144, § 32.

**SECTION 33. Plumbing.** Plumbing fixtures shall not be enclosed with woodwork. All plumbing pipes shall be exposed, except as may otherwise be permitted by the board of health. Wherever plumbing or other pipes pass through floors or partitions they shall pass through metal bushings or casings extending entirely through the floor or partition, and the inner diameter of such bushing or casing shall in no case exceed the outer diameter of such pipe by more than one thirty-second of one inch, and such bushings or casings shall be so set in floors or partitions as to be externally air tight. All plumbing work shall be sanitary in every particular and except as otherwise specified in this chapter shall be in accordance with the local plumbing regulations. Pan and long hopper closets shall not be used.

1913, 786, § 32.

G. L. 144, § 33.

**SECTION 34. Water Supply.** All sinks and water-closets shall be provided with an adequate supply of running water as approved by the board of health.

1913, 786, § 33.

G. L. 144, § 34.

**SECTION 35. Privies.** No privy or privy vault shall be permitted on the same lot with any tenement house.

1913, 786, § 34.

G. L. 144, § 35.



## FIRE PROTECTION.

**SECTION 36. Construction required.** No tenement house of third class construction shall be erected exceeding two and one half stories in height in any part, nor shall it be occupied, nor intended, arranged or designed to be occupied, by more than two families. No tenement house of second class construction shall be erected exceeding four stories in height, nor shall it exceed twenty-five hundred square feet in superficial area between fire walls. Any tenement house which exceeds four stories in height shall be of first class construction. A basement or cellar the ceiling of which extends more than three feet above the curb level shall be a story within the meaning of this section.

1913, 786, § 35.

G. L. 144, § 36.

**SECTION 37. Fire Escapes.** In every tenement house which exceeds two and one half stories in height in any part, there shall be one or more fire escapes located and constructed as provided in this section.

Such fire escapes shall be so located as to permit of unobstructed egress from every apartment on each floor above the ground floor, and in no case shall such egress be through any bathroom, water-closet, storage room or public hall, nor shall any opening giving egress to any fire escape be smaller in size than the minimum provided for windows by section twenty-six.

No fire escape shall be placed within or open upon any inner court unless such court measures at least twenty-four feet in its least dimension, and unless the consent of the building department shall have been obtained for such location.

Fire escapes shall, at the option of the owner, be constructed after one of the methods hereinafter specified and described, to wit:

A. A wholly enclosed tower stairway, with an adjacent open air vestibule at each floor.

Every such vestibule shall be constructed with brick, terra cotta or concrete walls not less than eight inches thick at any point, and shall have at least one of such enclosing walls formed by an outer wall of the building, and in such outer wall there shall be a permanent opening to the outer air, of an area not less than eighty per cent of the total area of such vestibule wall, and of a height not less than the clear story height. Such opening, if reaching to the floor of the vestibule, shall be provided with a railing of suitable height and strength. The floors of vestibules shall be constructed wholly of incombustible material.

If one apartment on each floor is to be served by this fire escape then one side wall (i.e., a wall at right angles to the outer wall) of each vestibule shall have an approved fire door giving egress from the adjacent apartment; or, if two apartments on any floor are to be served by this fire escape, the vestibule at such floor must be so located as to provide unobstructed egress from each apartment by means of an approved fire door in each side wall of the vestibule. Such fire doors shall be not less than three feet in clear width nor less than six feet and six inches in clear minimum height, and shall not be secured or fastened except upon the apartment

side, and then only by means of locking bars or other easily operated device having no removable parts. If there are openings from basement or cellar floors into the vestibule they shall be provided with self-closing fire doors and there shall be a permanent opening in the outer wall, all as hereinbefore described.

On the side of each vestibule opposite the opening to the outer air shall be constructed an approved fire door giving access to the stairway tower. Every such door shall be of the size hereinbefore described, of self-closing pattern but without locks or other fastenings, and shall contain an upper lighting panel of wire glass at least six feet in area. There shall be no opening into such a vestibule other than those hereinbefore described.

The stairway tower shall be not less than six feet six inches in clear width, and shall be constructed with walls of brick terra cotta, or concrete not less than eight inches thick at any point. Such walls shall extend from the ground to a point not less than two feet above the roof, and shall be so constructed as to be impervious to smoke. There shall be no doorways or other openings of any kind in such walls except the doorways connecting with the above described vestibules, and excepting an egress doorway opening at the ground level, such egress door to open outwardly, and if secured to be fastened upon the inside only. No such ground level door shall be secured by means of sliding bolts, nor by a lock or other apparatus requiring a key or other similar removable device.

Within the stairway tower shall be provided a stairway with a landing at the level of each doorway, each landing to extend the full width of the shaft and to be at least six inches wider in clear width than the door opening thereon. Stairs and such intermediate landings as may be required shall be not less than three feet in width measured to the center of balustrades, and shall be provided with balustrades and wall rails. Stairs shall be placed at an angle not exceeding forty-five degrees from the horizontal; treads to be not less than eight inches wide, and risers not to exceed nine inches in height. Winders shall not be permitted, nor shall there be less than three steps between any two landings. All such stairways, landings and balustrades shall be of incombustible material, except that wooden hand rails and wall rails may be used.

Every such shaft shall be roofed and provided with a skylight not less than sixteen square feet in area, glazed with wire glass one fourth inch or more in thickness set in metal frame and sash, and shall also have placed centrally in such skylight a suitable ventilator of not less than two hundred and twenty-five square inches area.

The above described type of fire escape may at the option of the owner be used as a regular service stairway.

B. An enclosed tower stairway, similar to the above, except that access to the same shall be provided by means of an outside balcony in each story above the ground floor, instead of by means of the vestibules hereinbefore described. Such balconies shall be constructed wholly of incombustible material, shall be provided with well-braced balustrades



of proper height on outer side and ends, and shall extend beyond at least one door or window opening into each adjacent apartment. All doors opening into the stairway tower shall be as described for type "A" fire escape.

C. An outside balcony or balconies at each floor above the first floor.

Such balconies shall be constructed wholly of incombustible material approved by the building department. They shall be not less than two feet in width at any point, and shall be provided with suitable balustrades and hand rails on outer sides and ends.

Each balcony shall communicate with the balcony next below by permanent stairways placed at an angle of not more than forty-five degrees from the horizontal, treads shall not be less than eight inches wide nor shall risers exceed nine inches in height, and each stairway shall be provided with balustrades and hand rails and shall measure in width not less than twenty-four inches measured from centers of hand rails.

A counterbalanced stairway shall be provided extending from the lowest balcony to the ground, arranged to be lifted and supported when not in use in a manner satisfactory to and approved by the building inspector.

All such balconies shall extend to and include at least one floor or window in every apartment on every floor above the ground floor, exclusive of windows in bathrooms, water-closets, storage rooms or public halls.

Floors of all balconies required by this chapter and treads of stairs appurtenant to balconies and fire escapes shall be constructed of grating pattern, and shall have the bars separated by a clear space of not over one inch, and shall be so constructed as safely to sustain a live load of not less than seventy pounds to the square foot of floor area. Balconies, unless it is otherwise provided by existing building laws or regulations, may project into the public highway for a distance not greater than four feet beyond the established building line. In case of tenements with flat roof, the balconies on the upper floors shall, if required by the building department, be provided with stairs or a gooseneck ladder leading from such balcony to the roof and securely fastened thereto.

All balustrades in this section shall have vertical bars placed not more than six inches on centers.

All balconies forming part of or constituting fire escapes, and all appurtenances thereof, shall be subject to such supplementary regulations as are in force or as may hereafter be adopted by any city or by the building department thereof.

All doors opening upon fire escape balconies within six feet of the stairways shall be of self-closing fire resisting pattern.

All windows opening upon fire escape balconies within six feet of the stairways shall be self-closing of wire glass set in metal frames and sash.

1913, 786, § 36.

G. L. 144, § 37.

**SECTION 38. Construction of Bulkheads and Scuttles.** Every tenement house exceeding two and one half stories in height and having a flat roof shall have in the roof a bulkhead or scuttle not less than

two feet by three feet in size. Such bulkhead or scuttle shall be covered with metal on the outside and shall be provided with stairs leading thereto and easily accessible to all tenants of the building. No bulkhead or scuttle shall be located in a closet or room, but shall be placed in the ceiling of the public hall on the top floor, and access through the same to the roof shall be direct and uninterrupted.

1913, 786, § 37.

G. L. 144, § 38.

**SECTION 39. Stairs and Public Halls.** In every tenement house there shall be at least one flight of stairs extending from the entrance floor to the top story. In every tenement house of third class construction there shall be at least two independent flights of stairs with separate entrances leading from the entrance floor to the top story, said flights of stairs being at two points as far apart as is possible in the opinion of the building department, and one of said flights of stairs may consist of outside, open stairs and balconies. In all cases said stairs shall be directly accessible from each apartment, without passing through any other apartment. All stairs and balconies and all public halls shall be at least three feet six inches wide in the clear. All stairs shall be constructed with a rise of not more than eight inches and with treads not less than nine inches wide. Winders shall not be permitted in any staircase.

1913, 786, § 33.

G. L. 144, § 39.

**SECTION 40. Fireproof Stairs and Stair Halls required in Tenement Houses of Second Class Construction.** In every tenement house of second class construction exceeding two and one half stories in height the stairs and stair halls shall be constructed of incombustible material throughout, except that treads may be of hard wood not less than one and three quarters inches thick. Wooden hand rails shall be permitted. The floors of all such stair halls shall be constructed of incombustible material, and no wooden flooring or sleepers shall be permitted. All such stairs and stair halls shall be enclosed on all sides with brick, terra cotta or concrete walls not less than eight inches thick. There shall be no transom or sash opening from any such stair hall to any other part of the house. Each stair hall shall be shut off from all non-fireproof parts of the building, on each story, by self-closing fire doors, and if glass is used in such doors it shall be of wire glass in metal frames and sash.

1913, 786, § 39.

G. L. 144, § 40.

**SECTION 41. Entrance Halls.** Every entrance hall shall be at least four feet wide in the clear.

1913, 786, § 40.

G. L. 144, § 41.

**SECTION 42. Shafts to be of Fireproof Construction.** All shafts shall be constructed of incombustible materials throughout, with self-closing fire doors at all openings at each story; and, if they extend to the cellar, shall also be enclosed in the cellar with incombustible walls and self-closing fire doors at all openings. In no case shall any shaft be constructed of materials in which any inflammable material or substance enters into any of the component parts. But nothing in this section shall be so construed as to require such enclosures about elevators or dumb-



waiters in the well hole of stairs where the stairs themselves are enclosed in brick or stone walls, and are entirely constructed of incombustible materials as provided in this chapter.

1913, 786, § 41.

G. L. 144, § 42.

**SECTION 43. Ceiling of Cellar, etc.** In every tenement house of second class construction the cellar ceiling and the ceiling and side walls of the cellar stairs shall be plastered on metal lath, and the stairs shall be provided at the top with a self-closing fire door.

1913, 786, § 42.

G. L. 144, § 43.

**SECTION 44. Closets under First Story Stairs not allowed.** No closet of any kind shall be constructed under any staircase leading from the first story to the upper stories.

1913, 786, § 43.

G. L. 144, § 44.

**SECTION 45. Outside Cellar Entrance.** There shall be an entrance to the cellar or other lowest story from the outside of the building.

1913, 786, § 44.

G. L. 144, § 45.

**SECTION 46. Finish about Chimneys.** Whenever the plaster finish about any chimney is carried on furring, the furring strips shall be of metal, and only metal lathing shall be used. All recesses about funnel holes shall be finished wholly with incombustible material at sides, top and bottom.

1913, 786, § 45.

G. L. 144, § 46.

**SECTION 47. Fire Walls.** Where non-fireproof tenement houses are built in the form of double houses or terraces or attached or semi-attached rows, there shall be a fire wall of brick, concrete or terra cotta or other hard incombustible material approved by the inspector of buildings, separating every such house from each adjoining house, and such wall shall have no openings therein, and shall extend from the floor of the basement or cellar to not less than one foot above the roof, and out to the boarding of the walls. No wooden beams shall be carried through the fire walls.

1913, 786, § 46.

G. L. 144, § 47.

**SECTION 48. Roofing Materials.** Roofs in all parts and the sides of all dormer windows shall be covered with fire resisting material satisfactory to the building inspector.

1913, 786, § 47.

G. L. 144, § 48.

**SECTION 49. Wooden Tenement Houses not to be used for Certain Purposes above Second Story.** In no wooden tenement house shall any story or part thereof above the second story be rented, leased, let or hired out to be occupied for housekeeping, nor shall it be intended, arranged or designed to be occupied for housekeeping, nor shall any provision be made for cooking, nor shall any cooking be done above the second story.

1913, 786, § 48.

G. L. 144, § 49.

#### IMPROVEMENTS IN OLD BUILDINGS.

**SECTION 50. Lighting and Ventilation of Rooms.** No room or alcove shall thereafter be occupied for living purposes unless it shall have a window with

an area of not less than ten square feet between stop beads opening directly upon the street, or upon a yard not less than ten feet deep, or above the roof of an adjoining building, or upon a court of not less than thirty square feet in area, open to the sky without roof or skylight.

1913, 786, § 49.

G. L. 144, § 50.

**SECTION 51. Lighting and Ventilation of Public Halls.** Public halls and stairs shall be provided with sufficient light to permit the reading of twelve point type in the daytime in any part thereof. Light and ventilation in such halls shall be from the outer air, except when in the opinion of the building inspector it is impracticable, in which case the lighting and ventilation shall be such as to meet the approval of the board of health.

All new skylights thereafter placed in a tenement house shall be provided with ridge ventilators having a minimum opening of forty square inches, and also with either fixed or movable louvers, or with movable sashes, and shall be of such size as may be determined to be practicable by the building inspector.

1913, 786, § 50.

G. L. 144, § 51.

**SECTION 52. Sinks.** Woodwork enclosing sinks placed in the public halls or stairs shall be removed and the spaces underneath shall be left open. The floors and wall surfaces beneath and around the sink shall be put in good order and repair, and if of wood shall be well painted with light colored paint.

1913, 786, § 51.

G. L. 144, § 52.

**SECTION 53. Water-closets.** Woodwork enclosing every water-closet fixture shall be removed, and the space underneath the seat shall be left open. The floor and other surfaces beneath and around the closet shall be put in good order and repair, and if of wood shall be well painted with light colored paint.

1913, 786, § 52.

G. L. 144, § 53.

**SECTION 54. Removal of Cesspools, etc.** Where a connection with a sewer is possible, all cesspools, school sinks, privy vaults or other similar receptacles used to receive fecal matter, urine or sewage shall within one year thereafter be completely removed and the places where they were located properly disinfected under the direction of the board of health. Such appliances shall be replaced by individual water-closets of durable non-absorbent material, properly sewer connected, with individual traps and properly connected flush tanks providing an ample flush of water thoroughly to cleanse the bowl. Each water-closet shall be located inside the tenement house in a compartment completely separated from every other water-closet, and such compartment shall contain a window of not less than three square feet in area opening directly upon the street or yard, or on a court of which the least dimension is not less than three feet and the area not less than fifteen square feet. The floors of the water-closet compartment shall be waterproof, as provided in section thirty-two. There shall be provided at least one water-closet for each apartment unless, in the opinion of the building inspector, this shall be impracticable; but in no case shall there be less than



one water-closet for every two apartments. Such water-closets and all plumbing in connection therewith shall be sanitary in every respect, and, except as in this section otherwise provided, shall be in accordance with the laws, ordinances and regulations in relation to plumbing and drainage. Pan and long hopper closets shall not be permitted.

1913, 786, § 53.

G. L. 144, § 54.

**SECTION 55. Basements and Cellars to be Damp Proof, etc.** Any part of a floor or wall below the adjoining grade, and in any case the lowest floor, shall be damp proof, and, when necessary, shall be concreted with a finished surface. The cellar ceiling shall be plastered when so required by the building inspector, except where such ceiling is already well covered with a metal ceiling or where the first floor above the cellar is constructed of iron beams and fireproof filling.

1913, 786, § 54.

G. L. 144, § 55.

**SECTION 56. Doors in Shafts and Courts.** At the bottom of every shaft and court there shall be a door giving sufficient access to such shaft or court to enable it to be properly cleaned out; provided, that where there is already a window giving proper access to such shaft or court, such window shall be deemed sufficient.

1913, 786, § 55.

G. L. 144, § 56.

**SECTION 57. Construction of Fire Escapes.** All non-fireproof tenement houses which are three or more stories in height and do not have fireproof stairs and stair halls or adequate fire escape as required by this chapter, except those of three stories which have two independent means of egress not directly connected with each other, approved in writing by the building inspector, and directly accessible to each apartment, shall be provided either with incombustible outside stairways or with incombustible fire escapes directly accessible to each apartment without passing through a public hall.

All fire escapes thereafter erected shall be located and constructed as prescribed in section thirty-seven.

No existing fire escape shall be deemed adequate unless the following conditions are complied with:

(1) Each apartment above the ground floor shall have a fire escape balcony directly accessible to it. All balconies shall be capable of sustaining a live load of seventy pounds per square foot.

(2) Each balcony shall be properly connected with one other balcony by adequate stairs or stationary ladders with openings not less than twenty-four by thirty-six inches, unless such balconies connect adjoining houses or adjoining parts of the same house separated from each other by a fire wall in which there are no openings except such as are protected by self-closing fire doors.

(3) All fire escapes shall have proper ladders from the lowest balcony of sufficient length to reach a safe landing place beneath.

(4) All fire escapes not on the street shall have a safe and adequate means of egress from the yard or court to the street or to adjoining premises.

(5) Prompt and ready access shall be had to all fire escapes, which shall not be obstructed in any way.

No existing fire escape shall be extended or have

its location changed except with the written approval of the inspector of buildings.

1913, 786, § 56.

G. L. 144, § 57.

**SECTION 58. Means of Egress.** Whenever a tenement house is not provided with sufficient fire escapes or with sufficient means of egress in case of fire, the building inspector shall order such additional fire escapes and other means of egress as may be necessary.

1913, 786, § 57.

G. L. 144, § 58.

#### ALTERATIONS OF OLD BUILDINGS.

**SECTION 59. Alterations.** No tenement house shall at any time be so altered as to be in violation of the requirements of sections ten to forty-nine, inclusive, except as hereinafter provided:

(1) Any additional room or hall that is thereafter constructed or created in a tenement house shall comply in all respects with said sections, except that such rooms may be of the same height as the other rooms in the same story of the house.

(2) All shafts shall be constructed fireproof throughout; with fireproof self-closing doors at all openings, at each story; and, if they extend to the cellar, shall also be enclosed in the cellar with fireproof walls and fireproof self-closing doors at all openings. In no case shall any shaft be constructed of materials in which any inflammable material or substance enters into any of the component parts. But nothing in this section shall be so construed as to require such enclosures about elevators or dumb-waiters in the well hole of stairs where the stairs themselves are enclosed in brick or stone walls, and are entirely constructed of fireproof materials as provided in this chapter.

(3) No tenement house of third class construction containing more than two apartments shall thereafter be enlarged or extended; except that a wooden extension not exceeding in total area seventy square feet may be added to an existing wooden tenement house, provided that such extension is used solely for bathrooms or water-closets.

1913, 786, § 58.

G. L. 144, § 59.

#### MAINTENANCE AND USE.

**SECTION 60. Lighting of Public Halls in the Day-time.** In every tenement house where the public halls and stairs are not, in the opinion of the board of health, sufficiently lighted, the owner of the house shall keep a proper light burning in the hallway, near the stairs, upon each floor, as may be necessary, from sunrise to sunset.

1913, 786, § 59.

G. L. 144, § 60.

**SECTION 61. Lighting of Public Halls at Night.** In every tenement house occupied by more than two families a proper light shall be kept burning by the owner in the public hallways, near the stairs, upon the entrance floor, and upon the second floor above the entrance floor of the house every night sunset to sunrise throughout the year, and upon all other floors of the said house from sunset until ten o'clock in the evening.

1913, 786, § 60.

G. L. 144, § 61.



**SECTION 62. Water-closets in Cellars.** No water-closet shall be permitted in the cellar of any tenement house, except as provided in sections twenty-seven and thirty-two.

1913, 786, § 61.

G. L. 144, § 62.

**SECTION 63. Water-closet Accommodations.** In every existing tenement house, there shall be provided at least one water-closet for every two apartments.

1913, 786, § 62.

G. L. 144, § 63.

**SECTION 64. Occupation of Basement and Cellar Rooms for Living Purposes.** In existing tenement houses no room in the cellar shall thereafter be occupied for living purposes except as provided in section twenty-seven. And no room in the basement of such houses shall be so occupied unless all the following conditions are complied with: Every such room shall be at least eight feet high in every part from the floor to the ceiling, and the ceiling in every part shall be at least four and one half feet above the curb level of the street or the level of the yard or court in front of such room. There shall be appurtenant to every such room the use of a water-closet. Every such room shall have a window opening, as provided in section fifty, of at least twelve square feet in size clear of the sash frame, which shall open readily for purposes of ventilation. The lowest floor shall be waterproof and damp proof. Every such room shall have sufficient light and ventilation, shall be well drained and dry, and shall be fit for human habitation.

1913, 786, § 63.

G. L. 144, § 64.

**SECTION 65. Floors around Water-closets and Sinks.** In all tenement houses the floor or other surface beneath and around water-closets and sinks shall be maintained in good order and repair, and if of wood shall be kept well painted with light colored paint.

1913, 786, § 64.

G. L. 144, § 65.

**SECTION 66. Repairs.** Every tenement house and all the parts thereof shall be kept in good repair, and the roof shall be kept so as not to leak, and all rain water shall so be drained and conveyed therefrom as to prevent dampness in the walls, ceilings, yards or areas.

1913, 786, § 65.

G. L. 144, § 66.

**SECTION 67. Water Supply.** Every tenement house shall have water furnished in sufficient quantity at one or more places in each apartment. The owner shall provide proper and suitable tanks, pumps or other appliances to receive and distribute an adequate and sufficient supply of water at each apartment in the said house at all times of the year during all hours of the day and night. But a failure in the general supply of water furnished by the city authorities or from the freezing or bursting of pipes shall not be construed to be a failure on the part of such owner, provided the proper and suitable appliances to receive and distribute water have been provided in the said house.

1913, 786, § 66.

G. L. 144, § 67.

**SECTION 68. Buildings to be kept Clean and Free from Refuse Matter, etc.** The owner of every tenement house shall cause every part thereof to be kept clean and free from any accumulation of dirt, filth and garbage or other refuse matter in or on the same, or in the cellars, halls, passages, rooms, areas, yards, courts, and spaces appurtenant thereto. The owner shall thoroughly cleanse every part of a tenement house whenever ordered so to do by the board of health.

1913, 786, § 67.

G. L. 144, § 68.

**SECTION 69. Walls of Courts to be whitened, etc.** The walls of all courts, except those opening on a street, unless built of a light colored brick or stone, shall be thoroughly whitened by the owner, or shall be painted a light color by him, and shall so be maintained. Such whitening or paint shall be renewed whenever necessary as may be required by the board of health.

1913, 786, § 68.

G. L. 144, § 69.

**SECTION 70. Walls and Ceilings of Rooms, etc.** In all tenement houses the board of health may require the walls and ceilings of every rooms that does not open directly on the street to be whitened or painted with white paint when necessary to improve the lighting of such room, and may require this to be renewed as often as may be necessary.

1913, 786, § 69.

G. L. 144, § 70.

**SECTION 71. Wall Paper.** No wall paper shall be placed upon the wall or ceiling of any tenement house unless the wall or ceiling has been thoroughly cleaned.

1913, 786, § 70.

G. L. 144, § 71.

**SECTION 72. Receptacles for Ashes, etc., to be provided.** The owner of every tenement house shall provide and maintain therefor suitable covered water tight receptacles for ashes, rubbish, garbage, refuse and other like matter.

1913, 786, § 71.

G. L. 144, § 72.

**SECTION 73. Certain Uses prohibited.** No swine shall be kept in a tenement house, or on the same lot therewith. No horse, cow, calf, sheep, goat or fowl shall be kept in a tenement house or on the same lot therewith within twenty-five feet of the tenement house. No tenement house, or the lot upon which it is situated, shall be used for the storage or handling of rags, nor as a place of public assemblage.

1913, 786, § 72.

G. L. 144, § 73.

**SECTION 74. Not to be used for Storage of Combustible Materials, etc.** No tenement house, and no part thereof, or the lot upon which it is situated, shall be used as a place of storage, keeping or handling of any article dangerous or detrimental to life or health, nor for the storage, keeping or handling of feed, hay, straw, excelsior, cotton, paper stock, feathers, rags or other easily combustible articles.

1913, 786, § 73.

G. L. 144, § 74.

**SECTION 75. Bakeries and Fat Boiling.** No bakery or place of business in which fat is boiled shall be maintained in any tenement house.

1913, 786, § 74.

G. L. 144, § 75.



**SECTION 76. Other Dangerous Businesses.** There shall be no transom, window or door opening into a hall from any part of a tenement house where paint, oil, spirituous liquors or drugs are stored for the purpose of sale or otherwise.

1913, 786, § 76.

G. L. 144, § 76.

**SECTION 77. Janitor or Housekeeper.** In any tenement house in which the owner thereof does not reside, there shall be a janitor, housekeeper or other responsible person who shall have charge of the same if the board of health shall so require.

1913, 786, § 76.

G. L. 144, § 77.

**SECTION 78. Overcrowding.** If a room in a tenement house is overcrowded, the board of health may order the number of persons sleeping or living in said room to be so reduced that there shall not be less than four hundred cubic feet of air to each adult, and three hundred cubic feet of air to each child under twelve occupying the room.

1913, 786, § 77.

G. L. 144, § 78.

**SECTION 79. Letting of Lodgings regulated.** No tenement house or part thereof shall be used for the letting of lodgings unless the person letting the same shall first file a notice in writing of the proposed letting in the office of the board of health, nor shall any person not a member of the family be taken to live within an apartment occupied by any family without such written notice. The owner shall see that this section is at all times complied with, and a failure so to comply on the part of any tenant, after due and proper notice from the owner, shall be deemed sufficient cause for the summary eviction of such tenant and the cancellation of his lease.

1913, 786, § 78.

G. L. 144, § 79.

**SECTION 80. Board of Health may order Repairs, etc.** Whenever any tenement house or building, structure, excavation, business pursuit, matter or thing, in or about a tenement house, or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof, is, in the opinion of the board of health, in a condition or in effect dangerous or detrimental to life or health, the board may declare that the same, to the extent which it may specify, is a public nuisance, and may order the same to be removed, abated, suspended, altered or otherwise improved or purified, as the order shall specify. The board may also order or cause any tenement house or part thereof, or any excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, matter or thing, in or about a tenement house, or the lot on which it is situated, to be purified, cleansed, disinfected, removed, altered, repaired or improved. If any order of the board is not complied with, within ten days after the service thereof, or within such longer or shorter time as the board may designate, then such order may be executed by said board through its officers, agents, employees or contractors.

1913, 786, § 79.

G. L. 144, § 80.

**SECTION 81. Infected and Uninhabitable Houses to be vacated.** Whenever it shall be certified by an inspector or officer or agent of the board of health that a tenement house, or any part thereof, is in-

fectured with contagious disease, or that it is unfit for human habitation, or dangerous to life or health by reason of want of repair, or of defects in the drainage, plumbing, ventilation or the construction of the same, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said house, the board may issue an order requiring all persons therein to vacate such house, or part thereof, within not less than twenty-four hours nor more than ten days, for the reasons to be mentioned in said order. In case such order is not complied with within the time specified, the board may cause said tenement house or part thereof to be vacated. The board, whenever it is satisfied that the danger from said house or part thereof has ceased to exist, or that it is fit for human habitation, may revoke said order, or may extend the time within which to comply with the same.

1913, 786, § 80.

G. L. 144, § 81.

**SECTION 82. Repair of Fire Escapes.** The owner of every tenement house shall keep all fire escapes thereon in good order and repair, and whenever they become rusty shall have them properly painted with two coats of paint. No person shall at any time place any encumbrance of any kind before or upon any such fire escape.

1913, 786, § 81.

G. L. 144, § 82.

**SECTION 83. Scuttles, Bulkheads, etc., to be easily Accessible at All Times, etc.** All scuttles and bulkheads, and all stairs or ladders leading thereto, shall be easily accessible to all tenants of the building, and kept free from encumbrance, and ready for use at all times. No scuttle or bulkhead door shall at any time be locked with a key, but either may be fastened on the inside by movable bolts or hooks.

1913, 786, § 82.

G. L. 144, § 83.

#### REQUIREMENTS AND REMEDIES.

**SECTION 84. Inspector of Buildings. Appointment.** In a city which accepts this chapter, or has accepted corresponding provisions of earlier laws, and in which the office of building inspector or a similar office does not exist, the mayor shall annually appoint an inspector of buildings.

1913, 786, § 83.

G. L. 144, § 84.

**SECTION 85. Permit for Construction or Alteration of Tenement House.** Before the construction or alteration of a tenement house, or the alteration or conversion of a building for use as a tenement house, is begun, and before the construction or alteration of any building or structure on the same lot with a tenement house, the owner shall submit to the building inspector a detailed statement in writing, verified by the affidavit of the person making the same, of the specifications for such tenement house or building, upon blanks or forms to be furnished by such inspector, and also full and complete copies of the plans of the work, together with a plan of the lot on which the same is or is to be situated, showing the location, character and size of all buildings thereon, and the exact dimensions of said lot together with its description by metes and bounds. The said statement shall give in full the name and residence, by



street and number, of the owner of the tenement house or other building. If such construction, alteration or conversion is proposed to be made by any other person than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, not only of the owner of the land, but of every person interested in the tenement house, either as owner, lessee or in any representative capacity. The affidavit shall allege that said specifications and plans are true and contain a correct description of such tenement house or other building, structure, lot and proposed work. The statements and affidavit herein provided for may be made by the owner, or by the person who proposes to make the construction, alteration or conversion, or by his agent. No person shall be recognized as the agent of the owner, unless he shall file with the building inspector a written instrument, signed by the owner, designating him as such agent. Any false swearing in a material point in any such affidavit shall be deemed perjury. The said specifications, plans and statements shall be filed in the office of the building inspector and shall be public records, and no such specifications, plans or statements shall be removed from the said office. The building inspector shall cause all such plans and specifications to be examined.

If such plans and specifications conform to the provisions of law they shall be approved in writing by the building inspector, and he may from time to time approve changes in any plans and specifications, provided that the plans and specifications so altered are in conformity with law, but the building inspector shall not approve any plans or specifications or any changes in the same until the board of health has certified that the said plans and specifications conform to the law relative to light, ventilation and sanitation. The construction, alteration or conversion of such tenement house, building or structure or any part thereof, shall not be begun until the filing of the said specifications, plans and statements, and the approval thereof, as above provided. The construction, alteration or conversion of any such house, building or structure, shall be in accordance with the said approved specifications and plans. Any permit or approval which may be issued by the building inspector but under which no work has been done above the foundation walls within one year after the issuance of the permit or approval, shall expire by limitation. Said inspector may revoke or cancel any permit or approval in case of any failure or neglect to comply with any provision of this chapter, or in case any false statement or representation was made in any specifications, plans or statements submitted or filed for such permit or approval.

1913, 786, § 84.

G. L. 144, § 85.

**SECTION 86. Building not to be occupied until after Approval, etc.** No building thereafter constructed as or altered into a tenement house shall be occupied in whole or in part for human habitation until the building conforms in all respects to the requirements of law. Upon notice of the completion of the construction, alteration or conversion of a tenement house, the building inspector and the board of health shall inspect the building forthwith and it

shall not be occupied as a place of habitation unless it conforms to the requirements of this chapter.

1913, 786, § 85.

G. L. 144, § 86.

**SECTION 87. Enforcement of Provisions.** Any court having jurisdiction in equity, or any justice thereof may upon the application of the city solicitor, building inspector or the board of health of any city, restrain the construction, alteration, repair, maintenance, use, or occupation of a building or other structure in violation of this chapter and order its removal or abatement as a nuisance, and compel compliance with any provision of this chapter.

1913, 786, § 86.

G. L. 144, § 87.

**SECTION 88. Building erected, etc., in Violation of this Act to be deemed a Common Nuisance, etc.** A building or other structure which is erected, altered, maintained or used in violation of this chapter shall be deemed a common nuisance without other proof thereof than proof of such unlawful construction, maintenance or use, and the board of health may, if such violation is of any section of this chapter relative to light, ventilation or sanitation, and the building inspector may, if said violation is of any other provision of this chapter, order the owner of said premises at his own expense to abate or remove said nuisance within twenty-four hours, or within such further time as said board of health or said building inspector, as the case may be, considers reasonable, after notice to be served in the manner provided in section ninety-five, and if the owner or occupant fails to comply with such order, the board may abate or remove the nuisance, and all expenses incurred thereby shall be paid by the person who caused or permitted the same.

1913, 786, § 87.

G. L. 144, § 88.

**SECTION 89. Penalties.** Whoever violates any provision of this chapter shall be punished by a fine of not less than ten dollars. Any person who violates any provision of this chapter, after he has been served with a notice or order as provided by section ninety-five, or who fails to comply with such notice or order within ten days after such service, or continues to violate any provision or requirement of this chapter in the respect named in such notice or order, shall in addition be punished by a fine of not less than five nor more than twenty dollars for each day after the first day during which the violation continues.

1913, 786, § 88.

G. L. 144, § 89.

**SECTION 90. Action of Board of Health, etc., may be reviewed by Superior Court.** Any person, the value of whose property may be affected by any action of the board of health or of the building inspector, may have the action of said board or inspector reviewed by the superior court by any appropriate process; provided, that proceedings are instituted within twenty days after such action.

1913, 786, § 89.

G. L. 144, § 90.

**SECTION 91. Right of Entry.** Any person having any duty to perform under this chapter in regard to any building or premises may, if it be necessary for the performance of such duty, enter the same.

1913, 786, § 90.

G. L. 144, § 91.



**SECTION 92. Liens.** Every fine imposed by judgment under section eighty-nine of this chapter or section fifty-four of chapter one hundred and forty-five upon a tenement house owner shall be a lien upon the house in relation to which the fine is imposed from the time of the filing of a certified copy of the judgment in the office of the register of deeds for the county or district where the tenement house is situated, subject only to taxes, assessments and water rates and other existing lawful encumbrances, and the board of health and the building inspector, upon the entry of said judgment, shall forthwith file the copy as aforesaid, and the copy, upon such filing, shall forthwith be properly indexed by the register of deeds.

1913, 786, § 91.

G. L. 144, § 92.

**SECTION 93. Notice of Pendency of Action to be filed, etc.** In any action or proceeding instituted by the officer or department charged with the enforcement of this chapter, the plaintiff or petitioner may file in the office of the register of deeds for the county or district where the property affected by such action or proceeding is situated, a notice of the pendency of the action or proceeding. The register of deeds with whom the notice is filed shall record it, and shall index it under the name of each person against whom said proceeding is instituted. Any such notice may be vacated by the order of a justice of the court in which the action or proceeding was instituted or is pending. The register of deeds of the county or district where the notice is filed is hereby directed to mark the notice and any record or docket thereof as cancelled of record, upon the presentation and filing of a certified copy of such order.

1913, 786, § 92.

G. L. 144, § 93.

**SECTION 94. Owner's Name, etc., to be registered, etc.** Every owner of a tenement house and every lessee of the whole house, or other person having control of a tenement house, shall file with the board of health a notice containing his name and address, and also a description of the property, by street and number or otherwise, as the case may be, in such manner as will enable the said board easily to find the same; and also the number of rooms in each apartment, and the number of families occupying the apartments.

When the owner or agent is not a resident of the city the notice shall contain the name and address

of some agent residing within the city for the purpose of receiving service of process, and notice to and service of process upon such agent shall bind the principal. Blanks for the said registration shall be provided by the board of health.

1913, 786, § 93.

G. L. 144, § 94.

**SECTION 95. Service of Notices.** Unless otherwise provided in this chapter, every notice or order in relation to a tenement house shall be served ten days before the time for doing the thing in relation to which it is issued. The service of a notice or order as aforesaid shall be made by the delivery of an attested copy in hand to the owner or his agent, or by leaving an attested copy at the last or usual place of abode of the owner or agent, or, if the owner is a non-resident and has no agent duly appointed, it shall be placed in a conspicuous place in said tenement house and a copy thereof mailed by a registered letter, on the same day on which it is posted, to the owner or his agent at his residence.

1913, 786, § 94.

G. L. 144, § 95.

**SECTION 96. Service of Summons.** In any action brought by any city official in relation to a tenement house for injunction, vacating of the premises or other abatement of nuisance, or to establish a lien thereon, service of process shall be in the manner provided in the preceding section, except that the service of process shall be made only by a sheriff or one of his deputies or by a constable.

1913, 786, § 95.

G. L. 144, § 96.

**SECTION 97. Certain Names and Addresses to be indexed, etc.** The names and addresses filed in accordance with section ninety-four shall be indexed by the board of health in such a manner that all those filed in relation to each tenement house shall be together, and readily ascertainable. The board of health shall provide the necessary books and clerical assistance for that purpose, and the expense thereof shall be paid by the city. Said indexes shall be public records, open to public inspection during business hours.

1913, 786, § 96.

G. L. 144, § 97.

**SECTION 98. Repeal.** Upon acceptance of this chapter by any city all ordinances of such city inconsistent herewith shall be annulled.

1913, 786, § 97.

G. L. 144, § 98.

## CHAPTER 145.

### TENEMENT HOUSES IN TOWNS.

#### SECT.

#### GENERAL PROVISIONS.

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## GENERAL PROVISIONS.

**SECTION 1. Application.** This chapter shall apply to all towns which accept it or have accepted corresponding provisions of earlier laws by vote of the town at a town meeting.

1912, 635, § 94.

G. L. 145, § 1.

**SECTION 2. Definitions.** The following words used in this chapter shall have the following meanings:

"Acceptance of this chapter" shall include the acceptance of corresponding provisions of earlier laws.

"Basement", a story partly but not more than one half below the level of the adjacent ground.

"Cellar", a story more than one half below the level of the adjacent ground.

"Corner lot", a lot situated at the junction of two streets, each not less than twenty feet in width. Any part of the width of such lot distant more than seventy feet from such junction shall not be regarded as part of a corner lot, but shall be subject to the provisions of this chapter respecting interior lots.

"Court", an open unoccupied space, other than a yard, on the same lot with the tenement house. A court not extending to the street or yard is an "inner court". A court extending to the street or yard is an "outer court".

"Existing", existing at the time of the accept-

ance of this chapter or corresponding provisions of earlier laws.

"Fireproof tenement house", one constructed of fireproof material throughout, with floors built of iron, steel or re-enforced concrete beams, filled in between with terra cotta or other masonry arches or with concrete or re-enforced concrete slabs; wood may be used only for under and upper floors, windows and door frames, sashes, doors, interior finish, hand rails for stairs, necessary sleepers bedded in the cement, and for isolated furrings bedded in mortar. There shall be no air space between the top of any floor arches and the floor boarding.

"Front" of a lot, that boundary line which borders on the street. In the case of a corner lot, the owner may elect by statement on his plans either street, boundary line as the front.

"Half story", any story included in the roof of which the floor area of the rooms is not more than seventy-five per cent of the area of the ground floor.

"Height" of a tenement house, the perpendicular distance measured in a straight line from the curb level, or from the finished grade line of the lot, where such grade is higher than the curb, to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the gable in the case of pitched roofs, the measurements in all cases to be taken through the center of the facade of the house. Where a building is on a corner lot and there is more than one grade or level, the measurements shall be taken through the center of the facade on the street having the lowest elevation.

"Interior lot" any lot other than a corner lot.

"Lodging house" or "boarding house", any house or building, or part thereof, in which six or more persons are harbored, received or lodged for hire, or any building, or part thereof, which is used as a sleeping place or lodging for six or more persons not members of the family residing therein.

"Nuisance" includes all public nuisances as known at common law or in equity jurisprudence; and furthermore whatever is dangerous to human life or detrimental to health, whatever building or erection, or part or cellar thereof, is overcrowded with occupants or is not provided with adequate ingress and egress to and from the same, or the apartments thereof, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted, in reference to their or its intended or actual use, and whatever renders the air or human food or drink unwholesome, are also severally in contemplation of this chapter, nuisances; and all such nuisances are hereby declared unlawful.

"Occupied spaces", Outside stairways, fire escapes, porches, platforms and other projections shall be considered as part of the building and not as part of the yard or courts or unoccupied area.

"Public hall", a hall, corridor or passageway not within an apartment.

"Rear" of a lot, the side opposite to the front. In the case of a triangular or gore lot the rear shall be the side not bordering on the street.

"Stair hall", the stairs, stair landings and those parts of the public halls through which it is neces-



sary to pass in going from the entrance floor to the roof.

"Street", any right of way dedicated to public use, any public alley, railroad right of way, cemetery or public park, twenty feet or more in width.

"Tenement house", any house or building, or part thereof, which is rented, leased, let or hired out to be occupied, or is occupied or is intended, arranged or designed to be occupied as the home or residence of more than two families (a family may consist of one or more persons) living independently of each other and having a common right in the halls, stairways, yard, cellar, sinks, waterclosets or privies, or any of them, and includes lodging and boarding houses, apartment houses, and flat houses. Dwelling houses built in continuous rows of more than two houses occupied or intended, arranged or designed to be occupied as the home or residence of one family or more having a common right in or using in common the halls, stairways, yards, cellars, sinks, water-closets or privies, or any of them, shall be deemed to be tenement houses and shall be subject to all the provisions of this chapter.

"Hereafter", after the acceptance of this chapter or corresponding provisions of earlier laws.

"Wooden building", a building of which the exterior walls or a part thereof are wood.

"Yard", an open unoccupied space in the same lot with a tenement house between the extreme rear line of the house and the extreme rear line of the lot. An open unoccupied space between the front line of the house and the front line of the lot is a "front yard". A "side yard" shall be deemed an outer court on the lot line.

Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the word "shall" is always mandatory, and denotes that the house shall be maintained in all respects according to the mandate as long as it continues to be a tenement house; wherever the words "by-laws", "regulations", "building inspector" or "board of health" occur in this chapter they shall be construed as if followed by the words "of the town in which the tenement house is situated"; wherever the words "is occupied" are used in this chapter applying to any building they shall be construed as if followed by the words "or is intended, arranged or designed to be occupied".

1912, 685, § 2.

G. L. 145, § 2.

**SECTION 3. Application of Certain Sections.** Unless otherwise specifically provided therein, sections ten to thirty-six, inclusive, shall apply only to tenement houses erected after the acceptance of this chapter, and sections thirty-seven to forty-one, inclusive, only to tenement houses erected prior to such acceptance.

1912, 685, §§ 9-13, 15, 17-28, 31, 33, 34, 37, 39, 40, 45, 49, 52, 54.  
G. L. 145, § 3.

**SECTION 4. Certain Provisions as to Tenement Houses in Cities Applicable.** The provisions of sections nine, fourteen, twenty-eight, twenty-nine, thirty-one, thirty-four, thirty-five, forty-five, forty-eight, forty-nine, fifty-one to fifty-three, inclusive, fifty-six, fifty-eight, sixty-three, sixty-five to sixty-

eight, inclusive, except the provision in section sixty-seven as to the freezing or bursting of pipes, seventy, seventy-two to seventy-six, inclusive, seventy-eight and eighty to eighty-three, inclusive, of chapter one hundred and forty-four shall apply to tenement houses in towns, but unless otherwise specifically provided therein the provisions of the first ten of said sections shall apply only to tenement houses erected after acceptance of this chapter and the provisions of said sections fifty-one, fifty-two, fifty-three, fifty-eight and sixty-three only to tenement houses erected prior to such acceptance.

1912, 685, §§ 4, 14, 29, 30, 32, 35, 36, 41, 43, 44, 46-48, 51, 53, 58, 61-64  
66, 68-72, 74-78.  
G. L. 145, § 4.

**SECTION 5. Laws not to be modified.** The provisions of this chapter shall be held to be the minimum requirements adopted for the protection of the health and safety of the community. Nothing in this chapter shall be construed as prohibiting any town from enacting from time to time by-laws imposing further restrictions, but no regulation or ruling of any town authority shall repeal, amend or dispense with any provision of this chapter.

1912, 685, § 5.

G. L. 145, § 5.

**SECTION 6. Sewer Connection and Water Supply.** The provisions of this chapter with reference to sewer connection and water supply shall be deemed to apply only where connection with a public sewer and with public water mains is or becomes practicable. The questions of the practicability of such sewer and water connections shall be decided by the local board of health, or by the department of public health upon request of the local board.

1912, 685, § 6.  
1914, 792, § 1.

1919, 350, § 96.

G. L. 145, § 6.

**SECTION 7. Powers of the Department of Public Health.** The department of public health may examine into the enforcement of the laws relating to tenement houses in any town. Whenever required by the governor, it shall make such an examination and shall report the result thereof to the governor within the time prescribed by him therefor.

1912, 685, § 7.  
1914, 792, § 1.

1919, 350, § 96.

G. L. 145, § 7.

**SECTION 8. Improvements required to be made within One Year.** In tenement houses erected prior to the acceptance of this chapter by a town all improvements specifically required thereby shall be made within one year thereafter, or at such earlier time as may be fixed by the board of health.

1912, 685, § 8.

G. L. 145, § 8.

**SECTION 9. Buildings converted or altered.** A building not a tenement house, if converted or altered to such use after the acceptance of this chapter, shall thereupon become subject to all the provisions thereof affecting tenement houses erected thereafter.

1912, 685, § 8.

G. L. 145, § 9.

#### NEW BUILDINGS, LIGHT AND VENTILATION.

**SECTION 10. Percentage of Lot occupied.** No tenement house shall occupy either alone or with other buildings more than sixty-five per cent of a



corner lot, nor more than fifty per cent of any other lot; the measurements shall be taken at the ground level. No measurements of lot area shall include any part of any street or alley.

1912, 635, § 9.

G. L. 145, § 10.

**SECTION 11. Distance from Side Lot Line.** No non-fireproof tenement house shall be erected, enlarged, or placed with the side walls nearer than ten feet to the line of any adjoining lot, or with any wall nearer than twenty feet to the wall of any other building. No lot upon which stands a tenement house erected before or after the acceptance of this chapter shall be changed in size to bring the side walls of said house nearer than ten feet to the lines of any adjoining lot or any wall of said house nearer than twenty feet to the wall of any other building.

1912, 635, § 10.

G. L. 145, § 11.

**SECTION 12. Height.** No tenement house shall exceed in height the width of the widest street upon which it stands, unless such house be set back from the street a distance at least equal to the excess of such height over the width of such street, nor shall it in any case exceed four stories in height.

1912, 635, § 11.

G. L. 145, § 12.

**SECTION 13. Yards.** Behind every tenement house there shall be a yard extending across the entire width of the lot and at every point open from the ground to the sky unobstructed. Every part of the yard shall be directly accessible from every other part thereof. The depth of the yard shall be measured from the extreme rear of the house to the rear line of the lot. If the tenement house is three stories or less in height the depth of the yard, in the case of interior lots, shall be at least twenty-five feet, and the depth of the yard in the rear of corner lots shall be at least fifteen feet. If the tenement house exceeds three stories in height, the depths above prescribed in each case shall be increased five feet for each story above three.

1912, 635, § 12.

G. L. 145, § 13.

**SECTION 14. Courts.** The sizes of all courts shall be proportionate to the height of the building. No court shall be less in any part than the minimum sizes prescribed in this section. The minimum width of a court for a two story building shall be ten feet, and the width shall increase two feet for each additional story. The length of an inner court shall never be less than twice the minimum width prescribed by this section. The length of an outer court shall never be greater than twice its minimum width, but this limitation of length shall not apply to an outer court on the lot line extending from yard or street to yard.

1912, 635, § 13.

G. L. 145, § 14.

**SECTION 15. Air Intakes.** Every inner court shall be provided with two or more horizontal air intakes at the bottom. One such intake shall always communicate directly with the street, and one with the yard, and each shall consist of a fireproof passageway not less than three feet wide and seven feet high which shall be left open, or be provided with

an openwork gate at each end, and the gate shall not be covered in any way either by glass or any other material.

1912, 635, § 15.

G. L. 145, § 15.

**SECTION 16. Angles in Courts.** Nothing in the foregoing sections concerning courts shall be construed as preventing windows at the angles of said courts: provided, that the running length of the wall containing such windows does not exceed six feet.

1912, 635, § 16.

G. L. 145, § 16.

**SECTION 17. Buildings on Same Lot with Tenement Houses.** If any building is thereafter placed on the same lot with a tenement house, whenever erected, or a tenement house erected upon any lot upon which there is already another building, it shall comply with the provisions of this chapter and section eighteen of chapter one hundred and forty-four, except that no rear building shall diminish the minimum size of courts or yards as hereinbefore prescribed.

1912, 635, § 17.

G. L. 145, § 17.

**SECTION 17A. Erection of Garages in Certain Tenement House Districts.** Nothing in this chapter shall prevent the building of a garage to accommodate not more than two cars in the yard of a tenement house erected before acceptance of this chapter.

1934, 163.

**SECTION 18. Frontage on Street.** Every tenement house shall have an unobstructed frontage upon a street not less than twenty feet wide. No tenement house and no other building shall thereafter be erected, enlarged or placed on the same lot with a tenement house in such manner that any tenement house shall be left without an unobstructed frontage upon a street not less than twenty feet wide.

1912, 635, § 18.

G. L. 145, § 18.

**SECTION 19. Lighting and Ventilation.** Every room, including water-closet compartments and bathrooms, shall have at least one window opening directly upon the street or upon a yard or court of the dimensions specified in sections thirteen and fourteen, and the window shall be so located as properly to light all parts of the room.

1912, 635, § 19.

G. L. 145, § 19.

**SECTION 20. Windows.** The total window area in each room, including water-closet compartments and bathrooms, shall be at least one seventh of the superficial area of the room, and the top of at least one window shall be not more than eight inches below the ceiling, and the upper half of it shall be made so as to open the full width. At least one such window in rooms other than bathrooms or water-closets shall be not less than twelve square feet in area between the stop beads; and in water-closet compartments and bathrooms at least one such window shall be not less than six square feet in area between the stop beads.

1912, 635, § 20.

G. L. 145, § 20.

**SECTION 21. Size of Rooms.** There shall be in each apartment at least one room containing not less than one hundred and fifty square feet of floor area.



All rooms shall be in every part not less than nine feet from the finished floor to the finished ceiling, except that an attic room need be nine feet high in but one half of its area.

1912, 635, § 21.

G. L. 145, § 21.

**SECTION 22. Alcoves.** An alcove in any room shall be lighted and ventilated separately, as provided for rooms in the foregoing sections, and shall not be less than one hundred square feet in area. No part of any room shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device, unless the part of the room so enclosed or subdivided shall contain a separate window as herein required and shall have a floor area of not less than one hundred square feet.

1912, 635, § 22.

G. L. 145, § 22.

**SECTION 23. Chimneys, etc.** There shall be adequate chimneys running through every floor with an open fireplace or grate or place for a stove, for every apartment, properly connected with one of the chimneys.

1912, 635, § 23.

G. L. 145, § 23.

**SECTION 24. Privacy.** In each apartment access to every living room and bedroom, and to at least one water-closet compartment shall be had without passing through a bedroom or bathroom.

1912, 635, § 24.

G. L. 145, § 24.

**SECTION 25. Public Halls.** Every public hall shall have at each story at least one window opening directly upon the street or upon a yard or court of the dimensions specified in sections thirteen and fourteen. Such window shall be at the end of said hall with the plane of the window at right angles to the hall's axis. Any part of a public hall which is in any way shut off from any other part of the hall shall be deemed a separate hall within the meaning of this section.

1912, 635, § 25.

G. L. 145, § 25.

**SECTION 26. Size of Windows for Public Hall.** One at least of the windows provided to light each public hall or part thereof shall be at least two feet six inches wide and five feet high, measured between stop beads, and the top of the window shall be not more than eight inches below the ceiling. There shall be in the roof, directly over each stair well, a ridge ventilator having a minimum opening of forty square inches and with movable louvers.

1912, 635, § 26.

G. L. 145, § 26.

**SECTION 27. Size of Windows for Stair Hall.** There shall be provided for each story at least one window to light and ventilate each stair hall which shall be at least two feet six inches wide and five feet high measured between the stop beads. A sash door shall be deemed the equivalent of the window specified in this section and the two foregoing sections, provided that each door contains the amount of glazed surface prescribed for such windows.

1912, 635, § 27.

G. L. 145, § 27.

## SANITATION.

**SECTION 28. Basements or Cellars not to be used for Living Purposes.** No room in the basement or cellar shall be constructed, altered, converted or occupied for living purposes.

1912, 635, § 28.

G. L. 145, § 28.

**SECTION 29. Courts, Yards and Areas to be drained, etc.** All courts, areas and yards shall be properly graded and drained; and when necessary in order to keep such premises in a sanitary condition such courts, areas or yards, or such part thereof as the board of health shall order, shall be properly concreted.

1912, 635, § 31.

G. L. 145, § 29.

**SECTION 30. Water-closets.** In every tenement house there shall be within each apartment a separate water-closet, located in a bathroom or in a separate compartment. Each such water-closet shall be completely separated from every other water-closet. Said compartment shall be not less than three feet wide, and shall be enclosed with plastered partitions which shall extend to the ceiling. Every such compartment shall have a window opening directly upon the street or upon a yard or court of the minimum size prescribed by this chapter. Every water-closet compartment thereafter placed in any tenement house whenever erected shall be provided with proper means of lighting the same at night, and floors beneath the water-closet shall be waterproofed as provided in section thirty-two of chapter one hundred and forty-four. No drip trays shall be permitted. No water-closet fixtures shall be enclosed with any woodwork. No water-closet shall be placed in the cellar.

1912, 635, § 33.

G. L. 145, § 30.

**SECTION 31. Plumbing.** No plumbing fixtures shall be enclosed with woodwork. All plumbing pipes shall be exposed except as otherwise permitted by the board of health. Wherever plumbing or other pipes pass through floors or partitions the openings around such pipes shall be sealed or made air tight with plaster or other incombustible materials, so as to prevent the passage of air or the spread of fire from one floor to another or from room to room. All plumbing work shall be sanitary in every particular and, except as otherwise specified in this chapter, shall be in accordance with the local plumbing regulations. Pan and long hopper closets shall not be used.

1912, 635, § 34.

G. L. 145, § 31.

**SECTION 32. Sewer Connection.** Every tenement house on a street in which there is a public sewer, or in which a public sewer shall hereafter be placed, shall be connected therewith.

1912, 635, § 37.

G. L. 145, § 32.

**SECTION 33. Cesspools.** No cesspools shall be permitted in the cellar or court of any tenement house, nor within fifteen feet of any wall of said tenement house, or of any dwelling house.

1912, 635, § 38.

G. L. 145, § 33.



## FIRE PROTECTION.

**SECTION 34. Certain Tenement Houses to be Fireproof.** No tenement house shall be erected exceeding two and one half stories in height, nor shall it be occupied, nor intended, arranged or designed to be occupied, by more than two families, unless it be a fireproof tenement house.

1912, 635, § 39.

G. L. 145, § 34.

**SECTION 35. Stairs.** There shall be at least two independent flights of stairs with separate entrances leading from the entrance floor to the top story, said flights of stairs being at two points as far apart as is possible in the opinion of the building inspector. Said stairs shall be directly accessible from each apartment, without passing through any other apartment. One of said flights of stairs may consist of outside, open stairs and balconies. All stairs and balconies and all public halls shall be at least three feet wide in the clear. All stairs shall be constructed with a rise of not more than seven and one half inches and with treads not less than ten and one half inches wide, and not less than three feet long in the clear. Winders shall not be permitted in any staircase.

1912, 635, § 40.

G. L. 145, § 35.

**SECTION 36. Fire Walls.** The provisions of section forty-seven of chapter one hundred and forty-four shall apply to tenement houses in towns except that the fire walls therein specified need extend only to the underside of the sheathing of the roof.

1912, 635, § 42.

G. L. 145, § 36.

## IMPROVEMENTS IN OLD BUILDINGS.

**SECTION 37. Lighting and Ventilating of Rooms.** The provisions of section fifty of chapter one hundred and forty-four except as to area of the window provided therein shall apply to tenement houses in towns.

1912, 635, § 45.

G. L. 145, § 37.

**SECTION 38. Privy Vaults, etc.** Where a connection with a sewer is possible, all school sinks, privy vaults or other similar receptacles used to receive fecal matter, urine or sewage, shall within one year thereafter be completely removed, and the place where they were located properly disinfected under the direction of the board of health. Such appliances shall be replaced by individual water-closets of durable non-absorbent material, properly sewer connected, with individual traps and properly connected flush tanks providing an ample flush of water thoroughly to cleanse the bowl. Each water-closet shall be located inside the tenement house in a compartment completely separated from every other water-closet, and such compartment shall contain a window of not less than three square feet in area opening directly upon the street or yard, or on a court of the minimum size prescribed in section fourteen. The floors of the water-closet compartments shall be waterproof as provided in section thirty. There shall be provided at least one water-closet for every two families in every existing tenement house. Such water-closets and all plumbing in connection therewith shall be sanitary in every respect, and

except as otherwise provided in this section shall be in accordance with the laws, town by-laws and regulations in relation to plumbing and drainage. Pan and long hopper closets shall not be used.

1912, 635, § 49.

G. L. 145, § 38.

**SECTION 39. Basements and Cellars.** The floor of the cellar or lowest floor shall be free from dampness, and, when necessary, shall be concreted with four inches of concrete of good quality and with a finished surface. The cellar ceiling of every tenement house shall be plastered, when so required by the building inspector, except where the ceiling is already well sheathed with matched boards or well covered with a metal ceiling, or where the first floor above the cellar is constructed of iron beams and fireproof filling.

1912, 635, § 50.

G. L. 145, § 39.

**SECTION 40. Fire Escapes.** All non-fireproof tenement houses, which are three or more stories in height, and do not have fireproof stairs and stair halls or adequate fire escapes, as required by this chapter, shall be provided either with fireproof outside stairways or with fireproof fire escapes directly accessible from each apartment without passing through a public hall.

No existing fire escape shall be deemed adequate unless the following conditions are complied with:

(1) In every tenement house each apartment above the ground floor shall have a fire escape balcony directly accessible from it.

(2) All balconies shall be properly connected with each other by adequate stairs or stationary ladders with openings not less than twenty-four by thirty-six inches.

(3) All fire escapes shall have proper ladders from the lowest balcony of sufficient length to reach a safe landing place beneath.

(4) All fire escapes not on the street shall have a safe and adequate means of egress from the yard or court to the street or to adjoining premises.

(5) Prompt and ready access shall be had to all fire escapes, which shall not be obstructed in any way.

No existing fire escape shall be extended or have its location changed except with the written approval of the inspector of buildings.

All fire escapes thereafter placed on tenement houses shall be located and constructed as follows: All such fire escapes shall open directly from at least one room or private hall in each apartment at each story above the ground floor, other than a bathroom or water-closet compartment, and such room or private hall shall be accessible to every room thereof without passing through a public hall. Access to fire escapes shall not be obstructed in any way. Fire escapes shall not be placed in any court. Fire escapes may project into a public street, but not more than four feet beyond the building line. All fire escapes shall consist of outside fireproof balconies and stairways. All balconies shall be not less than three feet in width, and shall include at least one window or outside door of each apartment at each story above the ground floor.

All fire escape stairways shall be placed at an angle of not more than forty-five degrees, with flat



open steps, not less than nine inches in width and twenty-four inches in length, and with a rise of not more than nine inches. The openings for stairways in all balconies shall be not less than twenty-four by thirty-six inches, and shall have no covers of any kind. When tenement houses upon which fire escapes are placed have flat roofs the balcony on the top floor, except in the case of a balcony on the street, shall be provided with stairs or with a gooseneck ladder leading from the balcony to and above the roof and properly fastened thereto. A drop ladder or stairs shall be provided from the lowest balcony of sufficient length to reach a safe landing place beneath. All fire escapes shall be constructed and erected to sustain safely in all their parts any reasonable load. In addition to the foregoing requirements, all fire escapes thereafter erected upon tenement houses shall be constructed in accordance with such supplementary regulations as may be adopted by the building department.

1912, 635, § 52.

G. L. 145, § 40.

#### ALTERATIONS OF OLD BUILDINGS.

**SECTION 41. Alterations.** No tenement house shall at any time be altered so as to be in violation of the requirements of section four, which relate to new buildings, and sections ten to thirty-six, inclusive, but the provisions of subdivisions one to three, inclusive, of section fifty-nine of chapter one hundred and forty-four shall apply to tenement houses in towns. Said subdivision three shall apply to wooden tenement houses of more than two apartments.

1912, 635, § 54.

1913, 614, § 1.

G. L. 145, § 41.

#### MAINTENANCE AND USE.

**SECTION 42. Lighting at Night.** The provisions of sections sixty and sixty-one of chapter one hundred and forty-four shall apply to the lighting of public halls and stairs in tenement houses except three-apartment houses, so called, which are provided with push buttons with a three-point switch for turning on or off the electric lights in the halls of the said apartments when it is necessary to use the stairway therein.

1912, 635, §§ 55, 56.

1913, 441, § 1.

G. L. 145, § 42.

**SECTION 43. Water-closets not permitted in Cellars.** No water-closet shall be permitted in the cellar of any tenement house.

1912, 635, § 57.

G. L. 145, § 43.

**SECTION 44. Basement and Cellar Rooms not to be occupied for Living Purposes.** The provisions of section sixty-four of chapter one hundred and forty-four shall apply to tenement houses in towns except in so far as they refer to section twenty-seven of chapter one hundred and forty-four, and provide for height of ceiling above specified exterior levels.

1912, 635, § 59.

G. L. 145, § 44.

**SECTION 45. Cellar Walls, etc., to be whitened or painted.** The cellar walls and ceilings of every tenement house shall be thoroughly whitened or painted a light color by the owner, and shall be so main-

tained. The whitening or paint shall be renewed whenever necessary, as may be required by the board of health.

1912, 635, § 60.

G. L. 145, § 45.

**SECTION 46. Walls of Courts to be whitened.** The walls of all courts unless built of a light colored brick or stone, shall be thoroughly whitened by the owner, or shall be painted a light color by him, and shall be so maintained. The whitening or paint shall be renewed whenever necessary, as may be required by the board of health.

1912, 635, § 65.

G. L. 145, § 46.

**SECTION 47. Wall Paper.** No wall paper shall be placed upon a wall or ceiling of any tenement house unless all wall paper shall be first removed therefrom and the wall and ceiling thoroughly cleaned.

1912, 635, § 67.

G. L. 145, § 47.

**SECTION 48. Janitor.** In any tenement house in which the owner thereof does not reside, there shall be a janitor, housekeeper or other responsible person who shall reside in said house and have charge of the same, if the board of health shall so require.

1912, 635, § 73.

G. L. 145, § 48.

#### REQUIREMENTS AND REMEDIES.

**SECTION 49. Inspection of Buildings.** In a town which accepts this chapter or has accepted corresponding provisions of earlier laws the selectmen shall annually appoint an inspector of buildings.

1912, 635, § 79.

G. L. 145, § 49.

**SECTION 50. Permit for Building to be required, etc.** The provisions of section eighty-five of chapter one hundred and forty-four shall apply to tenement houses in towns, except that the specifications, plans and statements required therein shall be filed in the office of the town clerk. But information submitted to the building inspector under said section shall also be submitted to the board of health upon blanks or forms furnished by it; and it shall cause all plans and specifications so submitted to be examined.

1912, 635, § 80.

G. L. 145, § 50.

**SECTION 51. The Building Inspector to grant Permit before Building can be occupied, etc.** No building thereafter constructed as or altered into a tenement house shall be occupied in whole or in part for human habitation until the issuance of a certificate by the building inspector that the building conforms in all respects to the requirements of law, and the building inspector shall not issue said certificate until the board of health certifies to him that the building conforms to all requirements of law relative to the light, ventilation and sanitation of tenement houses. Upon notice of the completion of the construction, alteration or conversion of a tenement house, the building inspector and the board of health shall inspect the building forthwith, and the building inspector shall issue a certificate of compliance within five days after written application therefor, if the building at the date of such application is found to conform to the requirements of this chapter.

1912, 635, § 81.

G. L. 145, § 51.



**SECTION 52. Procedure and Penalties.** Any court having jurisdiction in equity, or any justice thereof may upon the application of any town by its attorney restrain the construction, alteration, repair, maintenance, use, or occupation of a building or structure in violation of this chapter and order its removal or abatement as a nuisance, and compel compliance with any provision of this chapter.

1912, 635, § 82.

G. L. 145, § 52.

**SECTION 53. Buildings constructed, etc., in Violation of this Chapter to be deemed a Common Nuisance, etc.** A building or structure which is erected, altered, maintained or used in violation of this chapter shall be deemed a common nuisance without other proof thereof than proof of such unlawful construction, maintenance or use and the building inspector may, and if said violation is of any section of this chapter relative to light, ventilation or sanitation of said building shall, if required in writing by the board of health, order the owner of said premises at his own expense to abate or remove said nuisances within twenty-four hours, or within such further time as said board considers reasonable after notice to be served in the manner provided in section sixty and if the owner or occupant fails to comply with such order, the board may abate or remove the nuisance and all expenses incurred thereby shall be paid by the person who caused or permitted the same.

1912, 635, § 83.

G. L. 145, § 53.

**SECTION 54. Penalty for Violation, etc.** Whoever violates any provision of this chapter shall be punished by a fine of not less than ten dollars. Any person who violates any provision of this chapter, having been served with a notice or order as provided by section sixty, or who fails to comply with such notice or order within ten days after such service, or continues to violate any provision or requirement of this chapter in the respect named in said notice or order, shall in addition be punished by a fine of not less than five nor more than twenty dollars for each day after the first during which the violation continues.

1912, 635, § 84.

G. L. 145, § 54.

**SECTION 55. Jurisdiction of the Superior Court.** Any person, the value of whose property may be affected by any action of the board of health or the building inspector, may have the action of said board of health or said building inspector reviewed by the superior court by any appropriate process, provided proceedings are instituted within ten days after such action.

1912, 635, § 85.

G. L. 145, § 55.

**SECTION 56. Right of Entry into Buildings or Premises.** Any person having any duty to perform in regard to any building or premises under this chapter may, if necessary for the performance of such duties, enter the same.

1912, 635, § 86.

G. L. 145, § 56.

**SECTION 57. Liens.** The provisions of section ninety-two of chapter one hundred and forty-four shall apply to fines imposed by judgment under section fifty-four of this chapter.

1912, 635, § 87.

G. L. 145, § 57.

**SECTION 58. Notice of Pendency of Action to be filed, etc.** In any action or proceeding instituted by

the departments charged with the enforcement of this chapter, the procedure provided by section ninety-three of chapter one hundred and forty-four shall apply.

1912, 635, § 88.

G. L. 145, § 58.

**SECTION 59. Owner's Name to be registered.** The owner of a tenement house and every lessee of the whole house or of two or more tenements therein, or the agent of the owner or other person having control of a tenement house, shall annually during the month of April file in the office of the town clerk a notice containing his name and address, and also a description of the property, by street number or otherwise, as the case may be, in such manner as will enable the board of health and building inspector easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment, and the number of families occupying the apartments. The notice shall contain the name and address of some agent for the house, for the purpose of receiving service of process, and notice to and service of process upon such agent shall bind the principal.

1912, 635, § 89.

G. L. 145, § 59.

**SECTION 60. Serving of Notices, etc.** Unless otherwise provided in this chapter, every notice or order in relation to a tenement house shall be served ten days before the time for doing the thing in relation to which it is issued. The service of notices or orders as aforesaid shall be made by the delivery of an attested copy in hand to the owner or his agent, duly registered as provided in section fifty-nine or by leaving an attested copy at the last or usual place of abode of the owner or agent, or, if the owner is a non-resident and has no agent duly appointed, as provided in said section fifty-nine, it shall be posted in a conspicuous place in said tenement house and a copy thereof mailed by a registered letter on the same day on which it is posted, to the owner or his agent at the residence designated in the notice provided by said section.

1912, 635, § 90.

G. L. 145, § 60.

**SECTION 61. Service of Summons.** In any action brought by any town official in relation to a tenement house for injunction, vacating of the premises or other abatement of nuisance, or to establish a lien thereon, service of process shall be in the manner provided in the preceding section, except that the service of process shall be made only by a sheriff or one of his deputies or by a constable.

1912, 635, § 91.

G. L. 145, § 61.

**SECTION 62. Certain Names and Addresses to be indexed.** The names and addresses filed in accordance with section fifty-nine shall be indexed by the town clerk in such a manner that all of those filed in relation to each tenement house shall be together and readily ascertainable. The town clerk shall provide the necessary books and clerical assistance for that purpose, and the expense thereof shall be paid by the town. Said indexes shall be public records, open to public inspection during business hours.

1912, 635, § 92.

G. L. 145, § 62.

**SECTION 63. Repeal, etc.** Upon acceptance of this chapter by any town all by-laws and regulations of such town inconsistent therewith shall be annulled.

1912, 635, § 93.

G. L. 145, § 63.



## CHAPTER 149.

## LABOR AND INDUSTRIES.

## SECT.

## DUTIES AND POWERS OF DEPARTMENT OF LABOR AND INDUSTRIES.

4. Report of disease to department of public health.  
11. Reports to department by physicians.

## PROVISIONS AS TO HEALTH AND SAFETY.

106. Drinking water.  
117. Ventilation of factories and workshops.  
136. Notice to board of health of unsanitary conditions.  
140. Spittoons.

## HOMEWORK.

144. Manufacture of certain goods, etc., at home prohibited.  
147. Permits to deliver materials.

## DUTIES AND POWERS OF DEPARTMENT OF LABOR AND INDUSTRIES.

**SECTION 4. Report of Disease to Department of Public Health.** The department [the department of labor and industries] shall promptly report to the department of public health all cases of disease in industrial establishments affecting the health of the community.

1912, 726, § 6. G. L. 149, § 4. 1935, 328.  
1919, 350, §§ 69, 96.

**SECTION 11. Reports to Department by Physicians.** The department may require every physician treating a patient whom he believes to be suffering from any ailment or disease contracted as a result of the nature, circumstances or conditions of the patient's employment to report such information relating thereto as it may require, within such time as it may fix, and it may issue a list of such diseases which shall be regularly reported upon by physicians, and may add to or change such list at any time. The department shall pay a fee of fifty cents for each such report. Copies of all such reports and all statistics and data compiled therefrom shall be kept by it, and shall be furnished on request to the department of industrial accidents and the department of public health. No such report shall be subject to summons nor shall its contents be made public.

1913 813, § 6. 1919, 350, §§ 68, 69, 96. G. L. 149, § 11. 1935, 328.

## PROVISIONS AS TO HEALTH AND SAFETY.

**SECTION 106. Drinking Water.** All industrial establishments shall provide fresh and pure drinking water to which their employees shall have access during working hours. Any person owning, in whole or in part, managing, controlling or superintending any industrial establishment in which this section is violated shall, on the complaint of the local board of health, the selectmen of a town or an inspector, be punished by a fine of one hundred dollars.

1902, 322. 1909, 514, §§ 78, 145. G. L. 149, § 106.  
1907, 537, § 5. 1915, 117.

**SECTION 117. Ventilation of Factories and Workshops.** A factory where five or more persons and a workshop where five or more women or children are employed shall, while work is carried on therein, be so ventilated that the air shall not become so im-

pure as to be injurious to the health of the persons employed therein. A factory, workshop or garage where more than one person is employed shall be so ventilated that all gases, vapors, dust or other impurities injurious to health, whether generated in the course of the manufacturing process or handicraft carried on therein, or otherwise, shall so far as practicable be rendered harmless.

1909, 514, §§ 88, G. L. 149, § 117. 1929, 159.  
145. 1926, 159. 1935, 208.

**SECTION 136. Notice to Board of Health of Unsanitary Conditions.** If it appears to an inspector that any act, neglect or fault in relation to any drain, water-closet, earth closet, privy, ash pit, water supply, nuisance or other matter in any industrial establishment is punishable or remediable under any law relative to the preservation of the public health, but not under this chapter, he shall give written notice thereof to the board of health of the town where such establishment is situated, and such board of health shall thereupon inquire into the subject of the notice and enforce the laws relative thereto.

1887, 103, § 3. 1909, 514, §§ 81, G. L. 149, § 136.  
1894, 508, § 35. 145.  
R. L. 106, § 49.

**SECTION 140. Spittoons.** Suitable receptacles for expectoration shall be provided in all factories and workshops by the proprietors thereof, the same to be of such form, construction and number as shall be satisfactory to the board of health of the town where the factory or workshop is situated.

1907, 508, § 2. 1909, 514, §§ 103, G. L. 149, § 140.  
145. For penalty see § 180.

*SECTION 142 A (See page 171A)  
SECTION 142 B (See page 171A)  
SECTION 142 C (See page 171A)  
SECTION 142 D (See page 171A)*

**SECTION 144. Manufacture of Certain Goods, etc., at Home Prohibited.** The manufacture of or work upon any of the following by industrial homework shall be unlawful, and no permit issued under section one hundred and forty-seven or certificate issued under section one hundred and forty-seven A shall be deemed to authorize such manufacture or work upon or the delivery of materials for such manufacture: tobacco; drugs and poisons; bandages and other sanitary goods; explosives, fireworks and articles of like character; articles, the manufacture of or work upon which by industrial homework is determined by the commissioner, after investigation and hearing in the manner provided by sections one hundred and forty-five and one hundred and forty-six to be injurious to the health or welfare of the industrial homeworkers within the industry or to render unduly difficult the maintenance of existing labor standards or the enforcement of labor standards established by law or regulation for factory workers in the industry.

1891, 257, § 2. 1907, 537, § 5. 1919, 350, § 69.  
1893, 246, § 2. 1909, 514, §§ 107, G. L. 149, § 144.  
1894, 508, § 45. 145. 1937, 429.  
1898, 150, § 2. 1912, 726, § 5. 1945, 600, § 2.  
R. L. 106, § 67.

(To be inserted in place of Section 11 on page 170)

Section 11 Reports to Department by Physicians. The department may require every physician treating a patient whom he believes to be suffering from any ailment or disease contracted as a result of the nature, circumstances or conditions of the patient's employment to report such information relating thereto as it may require, within such time as it may fix, and may issue a list of such diseases which shall be regularly reported upon by physicians,

and may add to or change such list at any time. The department shall pay no fee for such report. Copies of all such reports and all statistics and data compiled therefrom shall be kept by it, and shall be furnished on request to the department of industrial accidents and the department of public health. No such report shall be subject to summons nor shall its contents be made public.

1950, 453





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## LABOR AND INDUSTRIES

See page 170, after Section 140)

**SECTION 142A. MARKING RECEPTACLES CONTAINING BENZOL.** No person shall keep for sale, sell, transport, or store, and no person shall have for use in any manufacturing, mechanical or mercantile establishment, benzene, represented by the chemical formula  $C_6H_6$ , in sections one hundred and forty-two B to one hundred and forty-two F, inclusive, called benzol, carbon tetrachloride or other substance which, in the opinion of the department, is so hazardous to health to warrant regulation, in any receptacle other than part of a vehicle used exclusively for outdoor transportation, unless such receptacle is marked with the word "BENZOL", "CARBON TETRACHLORIDE" or "NAME OF SUBSTANCE", and either with the words "BEWARE OF POISONOUS FUMES" or with the words "VOLATILE SOLVENT, POISON. USE WITH ADEQUATE VENTILATION. AVOID PROLONGED BREATHING OF VAPOR".

1933, 304§1

1935, 463§1

1949, 591§1

**SECTION 142B. MARKING RECEPTACLES CONTAINING MATERIALS WHICH CONTAIN BENZOL.** No person shall keep for sale, sell, transport or store, and no person shall have for use in any manufacturing, mechanical or mercantile establishment any material containing benzol, carbon tetrachloride or other substance which, in the opinion of the department, is so hazardous to health to warrant regulation, in any receptacle other than part of a vehicle used exclusively for outdoor transportation, unless such receptacle is marked with one of the following combinations of words and figures:—

"CONTAINS LESS THAN 20 PER CENT BENZOL, CARBON TETRACHLORIDE or NAME OF SUBSTANCE"

"CONTAINS MORE THAN 15 PER CENT BENZOL, CARBON TETRACHLORIDE or NAME OF SUBSTANCE",

truly indicating the proportion of benzol, carbon tetrachloride or harmful substance

incorporated in the mixture as last compounded, and with the words "BEWARE OF POISONOUS FUMES" or with the words "POISON, USE WITH ADEQUATE VENTILATION. AVOID PROLONGED BREATHING OF VAPOR".

1933, 304§2

1936, 463§2

1949, 591§2

**SECTION 142C. MANNER OF MARKING.** The words and figures required by the two preceding sections shall be clear and conspicuous and shall be of such size and be so placed as the commissioner shall by reasonable rules or regulations designate.

1933, 304

**SECTION 142D. EXEMPTIONS AS TO CERTAIN RECEPTACLES.** The commissioner may, by reasonable rules or regulations, exempt from the provisions of sections one hundred and forty-two A and one hundred and forty-two B, under such restrictions as he may deem advisable, (a) closed receptacles which are in the possession of the manufacturer by whom the contents of such receptacles were made or compounded or of a common carrier, provided in each case that he is satisfied that such contents are to be used only outside the commonwealth; (b) receptacles containing material used exclusively as motor fuel; (c) receptacles containing material which, as last compounded, contained less than one per cent by weight of benzol, carbon tetrachloride or harmful substance.

1933, 304§3

1949, 591§3

**SECTION 142E. REPORTS.** The commissioner shall, by reasonable rules or regulations, require such reports of the manufacture, sale, receipt, possession or use of benzol, carbon tetrachloride or other substance which, in the opinion of the department is so hazardous to health to warrant regulation, or of materials containing benzol, carbon tetrachloride or other substance which, in the opinion of the department, is so hazardous to health to warrant regulation, as he may deem



## LABOR AND INDUSTRIES

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advisable for the protection of persons exposed to possible injury by such benzol, carbon tetrachloride or other substance which, in the opinion of the department, is so hazardous to health to warrant regulation or materials containing benzol, carbon tetrachloride or other substance which, in the opinion of the department, is so hazardous to health to warrant regulation.

1933, 304§4

1949, 591§4

## SECTION 142F. PENALTY FOR VIOLATIONS.

Whoever violates any provision of section one hundred and forty-two A, one hundred and forty-two B or one hundred and forty-two C, or any rule or regulation made under section one hundred and forty-two C, one hundred and forty-

two D or one hundred and forty-two E, and whoever, being charged with the duty of marking any receptacle containing benzol, carbon tetrachloride or other substance, which, in the opinion of the department, is so hazardous to health to warrant regulation, or any material in which benzol, carbon tetrachloride or other substance, which, in the opinion of the department, is so hazardous to health to warrant regulation, is-- included, fails so to mark the same, and whoever wilfully removes or defaces any mark made in accordance with any of said provisions or rules or regulations, shall be punished by a fine of not more than one hundred dollars.

1933, 304§5

1949, 591§4

**SECTION 147. Permits to Deliver Materials.** No materials for manufacture or to be worked upon by industrial homework shall be delivered to any person in the commonwealth unless the employer so delivering them, or his agent if the employer is not a resident of this commonwealth, has in his possession a valid permit issued by the commissioner under authority of this section, hereinafter and in sections one hundred and forty-seven A to one hundred and forty-seven H, inclusive, called an employer's permit. Such permit shall be issued by the commissioner, may be renewed annually by him, and, subject to the last sentence of section one hundred and forty-five, shall be valid for a period of one year from the date of its issuance, unless sooner revoked or suspended. Application for such permit shall be made in such form as the commissioner may from

time to time by rule or regulation prescribe. No employer shall deliver or cause to be delivered any materials or articles for manufacture or to be worked upon by industrial homework to a person who is not in possession of a valid employer's permit, or a homeworker's certificate issued in accordance with this or the following section. The commissioner may revoke or suspend an employer's permit if he finds that the employer has violated any provision of sections one hundred and forty-four to one hundred and forty-seven H, inclusive, or has failed to observe or comply with any provision of his permit.

1891, 357, § 3.  
1892, 296, § 2.  
1893, 246, § 3.  
1894, 508, § 46.  
R. L. 106, § 60.

1907, 537, § 5.  
1909, 514, §§ 110,  
145.  
1912, 726, § 5.  
1919, 350, § 69.

G. L. 149, § 147.  
1937, 429.  
1941, 539.  
1945, 600, § 3.

## CHAPTER 160.

### RAILROADS.

**SECTION 174. Drinking Water.** Every railroad car, except private cars, sleeping cars, dining cars, parlor cars, and the smoking, buffet and observation cars used in connection with the same, while in use for the transportation of passengers, upon a train running thirty miles or more, shall be provided with a sufficient quantity of pure drinking water in such place in the car as will be convenient for the passengers, and with individual drinking cups accessible to the passengers. Said cups shall be in a proper receptacle near the water tank, and said receptacle shall be so placed as to be easily seen and shall be plainly marked as follows:

DRINKING CUPS  
FOR USE  
ONLY IN THIS CAR  
FREE

such words to occupy a space not less than two inches wide by three inches long, and to be in clear black letters on a white background. No charge shall be made for the water or for the drinking cups. The water and cups supplied shall be subject to the super-

vision and approval of the department of public health, which shall enforce this and the following section.

1911, 491, § 1.  
1912, 581.

1914, 792, § 1.  
1919, 350, § 96.

G. L. 160, § 174.

**SECTION 175. Penalty.** Violations of the preceding section shall be punished by a fine of not less than twenty-five dollars for each trip made by a car used for transporting passengers and not provided with water and utensils for its distribution in accordance with the preceding section.

1911, 491, § 2.

G. L. 160, § 174.

**SECTION 185A. Lavatory and Sanitary Facilities.** Every railroad and terminal corporation shall furnish, in its stations and other quarters provided for the use of its employees, adequate lavatory and sanitary facilities for their use, keep the same clean and free from unsanitary conditions and furnish adequate heat therefor when reasonably necessary. Whenever the department is of opinion, after a hearing had upon its own motion or upon complaint, that a violation of this section exists it shall thereupon order such changes as it deems necessary.

1943, 333.

## CHAPTER 165.

### WATER AND AQUEDUCT COMPANIES.

**SECTION 3. Certain Powers of Department of Public Health not affected.** This chapter shall not affect or impair the powers and duties of the department of public health with respect to water supply under chapter one hundred and eleven.

1914, 787, § 12.

G. L. 165, § 3.

**SECTION 6. Department of Public Health to furnish Assistance.** In all proceedings conducted by the department [public utilities] under the laws relating

to the petition of any water company for authorization to issue capital stock or bonds, and in all matters connected with the determination by the department of any question relating thereto and before any such authorization is given, the department of public health shall, on request of the department, furnish without charge engineering services and advice for its assistance and guidance in such proceedings.

1918, 660, § 1.  
1915, 21, §§ 2, 3.

1919, 350, § 117.

G. L. 165, § 6.

see chart 176 A - p. 172 A



## CHAPTER 180.

CORPORATIONS FOR CHARITABLE AND  
CERTAIN OTHER PURPOSES.

## SECT. MEDICAL MILK COMMISSION.

20. Incorporation.
21. Name.
22. Compensation to members forbidden.
23. Contracts for milk.
24. Power of department of public health.
25. Penalty for breach of five preceding sections.

## MEDICAL MILK COMMISSION.

**SECTION 20. Incorporation.** For the purpose of supervising the production of milk, any five or more registered physicians may form a corporation under this chapter. The members of the board of health of any town where such corporation is formed shall be ex officio members of the corporation. At least one member of said board of health shall be a member of the board of directors thereof.

1911, 506, § 1. 1923, 252, § 1. 7 Op. A. G. 284, 285.  
G. L. 180, § 20.

**SECTION 21. Name.** The name of any such corporation shall be "Medical Milk Commission of \_\_\_\_\_", designating the name of the town where such corporation is established, and, if more than one such corporation shall be organized in any town, the subsequent corporations shall use the name designated herein, but shall indicate in such name its proper sequence in incorporation by adding thereto the words "Number Two" or "Number Three" and so forth.

1911, 506, § 2. G. L. 180, § 21. 7 Op. A. G. 284, 285.

**SECTION 22. Compensation to Members forbidden.** No member of any such corporation shall receive directly or indirectly therefrom, or from any dairymen producing milk under agreement with the corporation, any salary or emolument or any compensation of any kind for any services rendered as a member of such corporation, or for any services

rendered under sections twenty to twenty-five, inclusive; whoever violates this section shall be punished by a fine of one hundred dollars, and shall be removed from his office as a member of said corporation and thereafter be disqualified from becoming a member of any such corporation.

1911, 506, § 3. G. L. 180, § 22. 7 Op. A. G. 284, 285.

**SECTION 23. Contracts for Milk.** Every such corporation may enter into written agreements with any dairymen for the production of milk under the supervision of such corporation and prescribe in such agreements the conditions under which such milk shall be produced, which, however, shall be approved by the department of public health and shall not fall below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions and the standards for milk fixed by law.

1911, 506, § 4. 1923, 252, § 2. 7 Op. A. G. 284, 285.  
G. L. 180, § 23.

**SECTION 24. Power of Department of Public Health.** The working methods of any such corporation and the dairies in which milk is produced under contract with it shall at all times be subject to investigation by the department of public health.

1911, 506, § 5. 1919, 350, § 96. 7 Op. A. G. 284, 285.  
1914, 792, § 1. G. L. 180, § 24.

**SECTION 25. Penalty for Breach of Five Preceding Sections.** Whoever sells or exchanges, or offers or exposes for sale or exchange as and for certified milk any milk not conforming to the regulations prescribed by and bearing the certification of a corporation organized under sections twenty to twenty-five, inclusive, shall be punished by a fine of not more than one hundred dollars.

1911, 506, § 6. G. L. 180, § 25. 7 Op. A. G. 284, 285.

## CHAPTER 252.

## IMPROVEMENT OF LOW LANDS AND SWAMP.

## SECT. IMPROVEMENT OF LOW LAND.

1. Improvement of low land, etc.
2. State reclamation board, composition, etc.
3. Investigation by reclamation board. Annual report.
4. Employment of engineers, agents, etc.
- 4A. Hearings, notice, rights of individuals and corporations, etc.
5. Petition to the board; appointment of district reclamation commissioners and their compensation.
- 5A. Powers, duties, etc., of board.
- 5B. Determination of mosquito breeding areas as public nuisances by local boards of health, etc.
6. Formation of reclamation district.
7. Surveys, plans, etc., recording in registry, etc.
8. Payment by state of part of expense, etc.
9. Meeting, etc., for method of financing improvements.
10. Petition to county commissioners, etc., for expense, etc.
11. Assessments, etc., powers and duties of collectors of taxes, etc.
12. Commissioners to carry out improvements, when, etc.
13. Commissioners may open flood gates, etc.
14. Accounts, etc., of commissioners for expenses, etc.
- 14A. District may vote to undertake further improvements, etc.

## SECT.

- 14B. No prescriptive right to additional water supply, etc.
- 14C. Penalty for obstruction, etc.

## IMPROVEMENT OF LOW LAND.

**SECTION 1. Improvement of Low Land, etc.** If it is necessary or useful (1) to drain or flow a meadow, swamp, marsh, beach or other low land held by two or more proprietors, or (2) to remove obstructions in rivers or streams leading thereto or therefrom, or (3) to eradicate mosquitoes in any area infested thereby, including, in respect to each such purpose, purposes incidental thereto, such improvements may be made as provided in the follow-

## CHAPTER 176A

### NON-PROFIT HOSPITAL SERVICE CORPORATION

Sect.

172A

1. Corporation subject to chapter; Reimbursement authorized for certain services in non-participating hospitals.
2. Incorporation; Directors; Certificates of organization; Insurance commissioner's recommendations, etc., of reports.
3. Contracts regulated.
4. Accounting system; Accountant, claim manager, etc.
5. Joint administration and other contracts; Reciprocal agreements; Rates of payments to hospitals regulated.
6. Contracts and rates, powers of commissioner of insurance and of court as to; Hearings; Appeals; Records; Visitations; Examinations, etc.
7. Additional powers of commissioner of insurance, etc.
8. Contracts, prerequisites to issuance; Contents.
9. Subscribers' contracts, prerequisites.
10. Group hospital service plans.
11. President, vice-president, etc.; Oaths, duties, etc.
12. Liabilities to be published with assets.
13. Service coverage to officers and employees.
14. Misleading, etc., statements, publication forbidden.
15. Acquisition cost and cost of administration limited.
16. Investments; Sales; Loans.
17. Disputes and controversies; Submission to commissioner of public health, etc.
18. Statements of condition; Filing, form, etc.
19. Charitable, etc., corporations, to be; Tax exemption.
20. By-Law amendments, filing, etc.
21. Copies of circulars, advertising matter, etc., submission to commissioner of insurance.
22. Further powers of commissioner of insurance as to forms, etc.
23. Injunction restraining further transaction of business; causes, prerequisites; Rehabilitation, proceedings; Receiver, liquidation, etc.
24. Contingent reserve fund.
25. Agents; Licenses, issuance, revocation; Hearings, etc.
26. Salaries, compensation, etc., regulated.
27. Chapter 175, section 138A, applicable to

- pay-roll deductions for contract payments.
- 27A. Accident, etc., insurance system for state employees; Special commission.
28. Penalties for violations.
29. Chapter applicable to all non-profit hospital service corporations, when; Exceptions.
30. Invalidity of certain portions of chapter, effect.

Section 1. Corporations Subject to Chapter; Reimbursement Authorized for Certain Services in Non-participating Hospitals. Any corporation organized under the laws of the commonwealth for the purpose of establishing, maintaining and operating a non-profit hospital service plan whereby hospital care may be provided by such corporation, or by a hospital with which it has a contract for such care and which is maintained by the commonwealth or a political subdivision thereof, or maintained by a corporation organized for hospital purposes under the laws of the commonwealth, or such other hospitals as shall be approved by the commissioner of public health, to such of the public who become subscribers to said plan under a contract which entitles each subscriber or his dependents, or employees or dependents of employees of employers who contribute the subscription fees in whole or in part to certain hospital care, shall be governed by this chapter.

Nothing in this section shall prevent such a corporation from reimbursing a subscriber for services received in a non-participating hospital, as follows:-

(a) Outside the commonwealth in the event of accident, illness or maternity.

(b) Within the commonwealth only in the event of accident, emergency illness or quarantinable disease.

Nothing in this section shall prevent any such corporation, with the approval of the commissioner of public health, from entering into contracts with the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke, whereby in consideration of a contract fee, said soldiers' homes shall provide such care for non-service connected causes as would be provided in participating hospitals under contracts with subscribers.



Section 2. Incorporation; Directors; Certificates of Organization; Insurance Commissioner's Recommendations, etc., of Reports. Persons desiring to form such a non-profit hospital service corporation shall incorporate as provided in section three of chapter one hundred and eighty.

The board of directors of each such corporation shall consist of seventeen members, six of whom shall be executive officers or trustees of hospitals referred to in section one, three of whom shall be officers or agents of contributing employers who are not identified with a hospital as officers, directors or employees, and three of whom shall be representatives of labor.

Every certificate of organization of a corporation subject to this chapter filed under said chapter one hundred and eighty shall have endorsed thereon or attached thereto the consent of the commissioner of insurance. The recommendations and criticisms of the latest report of each examination made by the commissioner of insurance shall be read at the next annual or special meeting of every non-profit hospital service corporation, and at the next meeting of the board of directors and thereafter a copy thereof shall be filed at the home office of the corporation and shall be made available for inspection by any member upon request.

1950, 766, s 1.

Section 3. Contracts Regulated. No non-profit hospital service corporation shall make or issue any contract to provide hospital care until it has obtained from the commissioner of insurance, in this section called the commissioner, a certificate, in such form as he may prescribe, stating that the corporation has complied with the conditions set forth in this chapter and all other provisions of law authorizing it to make or issue such contract. No such certificate shall be issued until the commissioner is satisfied, by such examination as he may make and such evidence as he may require, that the corporation has complied with the laws of the commonwealth, adopted a proper system of accounting, and employed either full time or on a consulting basis a competent accountant, a competent claim manager, a competent and experienced underwriter, and a competent and experienced actuary; nor, until the commissioner is satisfied, by such examination as he may make and by an affidavit filed with him, and by such evidence as he may require, that the corporation is without liabilities, except such organization expenses as the commissioner shall approve as reasonable; nor

until he is satisfied that its officers and directors are of good repute and competent to manage a non-profit hospital service corporation.

1950, 766, s 1.

Section 4. Accounting System; Accountant, Claim Manager, etc. Every non-profit hospital service corporation shall use a proper system of accounting, and employ either full time, or on a consulting basis, a competent accountant, a competent claim manager, a competent and experienced underwriter, and a competent and experienced actuary.

1950, 766, s 1.

Section 5. Joint Administration and Other Contracts; Reciprocal Agreements; Rates of Payments to Hospitals Regulated. Any corporation subject to this chapter may contract with corporations formed under chapter one hundred and seventy-six B or one hundred and seventy-six C for the joint administration of their business and may enter into reciprocal arrangements with other non-profit hospital service corporations organized in other jurisdictions for the mutual benefit of their subscribers.

Any corporation subject to this chapter may enter into contracts for the rendering of hospital service only with hospitals referred to in section one.

Every contract made by such corporation with a participating hospital shall contain a provision whereby such hospital guarantees to subscribers or their dependents or employees, or dependents of employees of employers who contribute the subscription fees in whole or in part the benefits of the subscriber's certificate in effect at the time of admission to such hospital notwithstanding the ability of such corporation to pay therefor. Officers of the commonwealth and of counties, cities and towns within the commonwealth are authorized to execute contracts containing such provision.

All rates of payments to hospitals made by such corporations under such contracts shall be approved in advance by the commissioner of public health, in this section called the commissioner. No rates of payment shall be approved by the commissioner unless such rates reflect reasonable hospital cost or are based on charges made to the general public, whichever is the lower. The commissioner in determining reasonable cost may give consideration to depreciation, amortization and individual services which are rendered for partial or no payment. The commissioner shall approve or disapprove rates under this section within a reasonable period of time. A hospital or non-

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(To be inserted at the end of Section 5, on  
Page 172C.)

and may contract with any agency of the United States of America, of the commonwealth or any city or town within the commonwealth for the purpose of providing hospital service or reimbursement for other health services.

1954, 513





profit hospital service corporation shall file with the commissioner on request such data, statistics, schedules or information as he may reasonably require to enable him to approve or disapprove contracts with or rates of payments to hospitals.

1950, 766, s. 1.

Section 6. Contracts and Rates, Powers of Commissioner of Insurance and of Court as to; Hearings; Appeals; Records; Visitations; Examinations, etc. Contracts issued and rates charged by non-profit hospital service corporations to its subscribers for hospital care shall be subject to the approval of the commissioner of insurance, in this section called the commissioner. No such contracts shall be issued and no such rates shall be charged by a non-profit hospital service corporation to its subscribers for hospital care until such contracts and rates have been approved in advance by the commissioner, except as otherwise provided herein. No such contracts or rates shall be approved until after a public hearing advertised in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester and New Bedford and Lowell, and held within thirty days of the date of the filing of a copy of the form of such contracts or rates with the commissioner.

The commissioner shall approve or disapprove such contracts or rates within thirty days following the conclusion of the public hearing, to be effective not earlier than thirty days subsequent to such approval. No such contracts shall be approved if the benefits provided therein are unreasonable in relation to the rate charged, nor if the rates are excessive, inadequate or unfairly discriminatory. Classifications shall be fair and reasonable. The contracts and rates so approved shall be applicable to all such subscribers except as otherwise herein provided whether such subscribers become such before or after the effective date thereof, and shall continue in effect for not less than twelve months after said effective date and thereafter until any changes shall have been approved as provided above; except that an increase in benefits to subscribers may, with the approval of the commissioner, be allowed at any time and provided that such contracts may be cancelled for non-payment of subscribers' fees, misrepresentation or fraud or as provided in sections eight and ten.

Under such rules and regulations as he shall adopt, the commissioner may by written order suspend or modify the requirements of filing or prior approval of contracts and rates.

The commissioner may make and, at any time, alter or amend, reasonable rules or regulations to facilitate the operation and enforcement of this section and to govern hearings and investigations thereunder.

He may, at any time, require any non-profit hospital service corporation to file with him such data, statistics, schedules or information as he may deem proper or necessary to enable him to approve or disapprove contracts and rates to subscribers.

He may issue such orders as he finds proper, expedient or necessary to enforce and administer the provisions of this section and to secure compliance with any rules and regulations made thereunder.

The supreme judicial court shall have jurisdiction in equity upon the petition of the commissioner and upon a summary hearing, to enforce all lawful orders of the commissioner. Memoranda of all actions, orders, findings and decisions of the commissioner shall be signed by him and filed in his office as public records open to public inspection.

Any subscriber, non-profit hospital service corporation or other person aggrieved by any action, order, finding or decision of the commissioner under this section may, within twenty days from the filing of such memorandum thereof in his office, file a petition in the supreme judicial court for the county of Suffolk for a review of such action, order, finding or decision. An order of notice returnable not later than seven days from the filing of such petition shall forthwith issue and be served upon the commissioner. Within ten days after the return of said order of notice, the petition shall be assigned for a speedy and summary hearing on the merits. The action, order, finding or decision of the commissioner shall remain in full force and effect, pending the final decision of the court unless the court or a justice thereof after notice to the commissioner shall be a special order otherwise direct. The court shall have jurisdiction in equity to modify, amend, annul, reverse or affirm such action, order, finding or decision and shall uphold the commissioner's action, order, finding or decision if supported by the weight of evidence. The court may make any appropriate order or decree. The court may make such order as to costs as it deems equitable. The court shall make such rules or orders as it deems proper governing proceedings under this section to secure prompt and speedy hearings and to expedite final decisions thereon.

The commissioner shall require every such corporation to keep its books, records, statis-



tics, accounts and vouchers in such manner that he or his authorized representatives may readily verify its annual statements and ascertain whether the corporation has complied with the law.

At least once in three years, and whenever he determines it to be prudent, he shall personally, or by his deputy or examiner, visit each non-profit hospital service corporation and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, whether it has complied with the law, and any other facts relating to its business methods and management, and the equity of its dealings with its subscribers.

A report of examination of any corporation made under this section shall as far as material and relevant be admitted in the discretion of the court in any judicial proceedings brought by or in behalf of the commissioner or any subscriber, non-profit hospital service corporation or other person as evidence tending to prove the facts stated in such report, but nothing in this paragraph shall be construed to require the commissioner to make an examination under this section before bringing such a proceeding.

The commissioner may investigate, in such manner and to such extent as he may deem expedient, any complaint under any subscriber's contract.

1950, 766, s 1.

Section 7. Additional Powers of Commissioner of Insurance, etc. The commissioner of insurance, or any person authorized by him to make examinations or investigations or to conduct hearings provided for by this chapter, shall have free access to all the assets of non-profit hospital service corporations for the purpose of verification, and to all the books and papers relating to their business and to the books and papers of their representatives. Said commissioner or any person authorized by him may summon and examine under oath any person who has knowledge of the affairs, transactions or circumstances being examined or investigated; and whoever without justifiable cause neglects upon due summons to appear and testify before the commissioner of insurance or his authorized representative, and whoever obstructs said commissioner or his representative in making examinations or investigations under this chapter, shall be punished as provided herein.

1950, 766, s 1.

Section 8. Contracts, Prerequisites to Issuance, Contents. Except as provided in sections six and ten, no contract between the subscriber and the corporation shall be issued or delivered in the commonwealth:-

(a) Until a copy of the form of the contract and a table of rates shall have been approved by the commissioner of insurance, in this section called the commissioner; nor

(b) If the commissioner notifies the corporation in writing that in his opinion the form of said contract does not comply with the laws of the commonwealth, specifying the reason for his opinion, provided that such action of the commissioner shall be subject to review by the supreme judicial court; nor

(c) Unless it contains in substance the following provisions:-

(1) A provision that until a date specified therein the contract may not be cancelled by the corporation or revised, except for non-payment of subscriber fees, misrepresentation, or fraud, or as provided in section six or ten, or for any other cause which may be approved by the commissioner.

(2) A statement of the hospital services to be furnished by the corporation or its participating hospitals and the period during which they will be furnished, and, if any hospital services are excluded, a statement of such exclusion.

(3) A statement of the period of grace which will be allowed for making any payment due from the subscriber under its contract, which in any event shall not be less than ten days.

(4) A provision that the subscriber or any person claiming under a subscriber's contract shall have a period of at least two years from the time the cause of action arises to bring suit thereon.

1950, 766, s 1.

Section 9. Subscribers' Contracts, Prerequisites. Except as provided in section ten, no subscriber's contract shall be issued by a non-profit hospital service corporation unless prior thereto a written representation relative to physical condition, in such form as the commissioner of insurance may approve signed by the subscriber, has been made to such corporation; provided, however, that subscribers' contracts may be issued which exclude particular illnesses or diseases or illnesses or diseases arising from a particular source.

1950, 766, s 1.

**Section 10. Group Hospital Service Plans.** Any plan whereby such a corporation agrees with a group of five or more persons or with the employer, employers or representatives of a group of five or more persons to furnish hospital benefits to said persons alone or to their dependents also and where the enrollment in such group is on a basis precluding individual selection, shall be considered a group hospital service plan. The contracts and rates under such plan shall not be subject to other provisions of this chapter regarding prior filing and prior approval but shall be subject to subsequent disapproval by the commissioner if he finds that the basis does not preclude individual selection. It shall not be considered a group hospital service plan if less than twenty-five per cent of those eligible in a group of fifty or more or seventy-five per cent of those eligible in a group of less than fifty agree to become subscribers. If at any time the number enrolled as subscribers drops below the prescribed per cent of the total eligible members of that group the commissioner may require the corporation to cancel all contracts in that group without any liability for hospital admissions of any of the subscribers in that group after date of cancellation. Group contracts may be issued without written representation relative to physical condition. Group contracts shall be filed with the commissioner of insurance within thirty days after the effective date and shall be subject to his subsequent disapproval after notice and hearing if said contracts do not meet the requirements of this section.

No such contracts shall be approved if the benefits provided therein are unreasonable in relation to the rate charged, nor if the rates are excessive, inadequate or unfairly discriminatory. Classifications shall be fair and reasonable.

Nothing in this section shall be taken to prohibit as unreasonable or unfairly discriminatory the establishment of classification or modifications of classifications or risks based upon size, expense, management, individual expense, purpose, location or dispersion of hazard or any other reasonable considerations, or to prohibit retrospective refunds, providing such classifications, modifications and provisions for refunds apply to all risks under the same or substantially similar circumstances or conditions.

1950, 766, s 1.

**Section 11. President, Vice-president, etc.;**

Oaths, Duties, etc. The president, vice-president, if any, the secretary, assistant secretary, if any, the treasurer, and assistant treasurer, if any, shall be annually sworn and their oaths entered of record in the books of the non-profit hospital service corporation.

Each director shall file with the secretary a written acceptance of the trust before he is qualified to act.

The secretary, the treasurer, and each assistant secretary and each assistant treasurer, if any, of such a corporation shall, before entering upon his duties, give a bond payable to the corporation, conditioned upon the faithful performance of his duties. The bond shall be executed as surety by a surety company authorized to transact business in the commonwealth, and shall be in a form satisfactory to the commissioner of insurance and in such penal sum as the commissioner shall prescribe. If the authority of any such surety company to transact business in the commonwealth is terminated, each officer bonded as aforesaid by such surety company shall forthwith execute a new bond in compliance with this section.

The president, or in his absence the vice-president, if any, shall preside at all meetings of the directors or subscribers. In the absence of both said officers a temporary president may be chosen. The secretary shall keep a record of the attendance, the votes taken and the manner in which each director votes, and of all other proceedings of all meetings of the directors and subscribers, and such other books and records as the president and directors may require. The records so kept shall be evidence of all elections and of the transactions to which they relate.

1950, 766, s 1

**Section 12. Liabilities to Be Published with Assets.** When any such non-profit hospital service corporation publishes its assets it shall in the same connection and with equal conspicuousness publish its liabilities, both computed on the basis allowed for its annual statements.

1950, 766, s 1.

**Section 13. Service Coverage to Officers and Employees.** Any non-profit hospital service corporation may provide for the issuance to its employees of hospital service coverage and medical service coverage. The term "employee" as used in this section shall include an officer.

1950, 766, s 1.



Section 14. Misleading, etc., Statements, Publication Forbidden. No non-profit hospital service corporation, or any officer or agent thereof, shall make, issue, circulate or use, or cause or permit to be made, issued, circulated or used, any written or oral statement misrepresenting the terms of any subscriber's contract issued or to be issued by any non-profit hospital service corporation, or the benefits or privileges promised thereunder.

1950, 766, s 1.

Section 15. Acquisition Costs and Costs of Administration Limited. Acquisition costs in connection with the solicitation of subscribers, and the cost of administration shall at all times be limited to such amounts as the commissioner of insurance shall approve as adequate and reasonable, but in any event, such acquisition costs shall not exceed in any one year ten per cent of the earned subscription fees during that year, except that during the first five years after the issuance of a certificate of compliance by said commissioner such corporation may disburse not more than twenty per cent of such amount in each year.

1950, 766, s 1.

Section 16. Investments; Sales; Loans. Such a corporation may invest in real estate necessary for its convenient accommodation in the transaction of its business in an amount not in excess of ten per cent of its invested assets, including cash in banks.

No investment, sale or loan shall be made which has not first been authorized by the board of directors, or by a committee thereof charged with the duty of investing or loaning the funds of the corporation; nor shall any deposit be made in a bank or banking institution unless such bank or banking institution has first been approved as a bank of deposit by the board of directors or said committee thereof, and unless the vote authorizing such investment, sale or loan or approval of the place of deposit has been duly recorded in the books of the corporation.

1950, 766, s 1.

Section 17. Disputes and Controversies; Submission to Commissioner of Public Health, etc. Any dispute arising between a corporation subject to this chapter, and any hospital with which such corporation has a contract for hospital service as authorized by this chapter, may with the consent of both parties be submitted to the commissioner of public health

for his decision with respect thereto. Any dispute or controversy arising between a non-profit hospital service corporation and any subscriber or any person whose subscription certificate has been cancelled may with the consent of both parties be submitted to the commissioner of insurance for his decision with respect thereto. All decisions and findings of the commissioner of public health and the commissioner of insurance made under this section shall be final as to the facts.

1950, 766, s 1.

Section 18. Statements of Condition; Filing, Form, etc. Every such corporation subject to this chapter shall annually, on or before the first day of March file in the office of the commissioner of insurance a statement, verified by at least two of the principal officers of said corporation, showing its condition as of the thirty-first day of December next preceding. Said statement shall be in such form and shall contain such other matters as said commissioner shall prescribe. The commissioner may, for cause shown, extend the filing date of the annual statement, or of schedules or exhibits which are a part of such statement or which are required by the commissioner, for not more than sixty days beyond March first in said year. Any such corporation neglecting to make and file its annual statement in the form and within the time herein specified shall forfeit one hundred dollars for each day during which such neglect continues, and upon notice by said commissioner to that effect its authority to do new business shall cease while such default continues.

1950, 766, s 1.

Section 19. Charitable, etc., Corporations, to Be; Tax Exemption. Every corporation subject to this chapter is hereby declared to be a charitable and benevolent corporation and its property shall be exempt from state, city, county, district and municipal taxes.

1950, 766, s 1.

Section 20. By-law Amendments, Filing, etc. Every non-profit hospital service corporation shall, within thirty days after the adoption of any amendment to its by-laws, file with the commissioner of insurance for his approval a copy of such amendment certified under its corporate seal by its secretary.

1950, 766, s 1.

Section 21. Copies of Circulars, Advertising Matter, etc., Submission to Commissioner of Insurance. The commissioner of insurance may require any non-profit hospital service corporation to submit for his inspection copies of any circular or other advertising matter issued by it in the commonwealth.

1950, 766, s 1.

Section 22. Further Powers of Commissioner of Insurance as to Forms, etc. All provisions of this chapter relative to the filing of subscriber contract forms with, and the approval of such forms by, the commissioner of insurance shall also apply to all forms of riders, endorsements and applications designed to be attached to such forms, and when so attached to constitute a part of the contract.

1950, 766, s 1.

Section 23. Injunction Restraining Further Transaction of Business; Causes, Prerequisites; Rehabilitation Proceedings; Receiver, Liquidation, etc. If the commissioner of insurance, in this section called the commissioner, is satisfied, as to any corporation subject to this chapter that (1) it has failed to comply with the provisions of its charter, or (2) it is being operated for profit, or (3) it is fraudulently conducted, or (4) its condition is such as to render its further transaction of business hazardous to the public or to its subscribers, or (5) its officers and agents have refused to submit to an examination under section six, or (6) it has exceeded its powers, or (7) it has violated any provision of law, or (8) it has compromised, or is attempting to compromise, with its creditors on the ground that it is financially unable to pay its claims in full except as authorized under hospital contracts, or (9) it is insolvent, he may apply to the supreme judicial court for an injunction restraining it from further proceeding with its business. The court may forthwith issue a temporary injunction restraining the transaction of any business, and it may, after a full hearing, make the injunction permanent, and appoint one or more receivers to take possession of the books, papers, moneys and other assets of the corporation, settle its affairs, and distribute its funds to those entitled thereto, subject to such rules and orders as the court may prescribe or the court may order that such corporation be rehabilitated as provided below in this section.

The commissioner may institute a rehabilitation proceeding against any non-profit hospital service corporation for any cause specified

in the preceding paragraph, by making application to the supreme judicial court for his appointment as receiver to rehabilitate such corporation and conserve its assets. The court may on such application issue a temporary injunction restraining the corporation in whole or in part from further proceeding with its business, and may appoint the commissioner as temporary receiver forthwith, and, after due notice and a full opportunity to be heard, may appoint the commissioner as permanent receiver and authorize him to take possession of all the property and effects of the corporation and to conduct its business for the purpose of rehabilitating it by taking such measures as may be proper to eliminate the causes and the conditions, which caused the institution of such proceeding, subject to the order of the court, may make any other appropriate order, or may dismiss the petition.

The receiver or such corporation may at any time make application to the court for the termination of a proceeding under this section and for the return to the corporation of all its property and effects, with authority to resume the conduct of its business. The court, if satisfied after due notice and a full hearing that the purposes of the proceeding have been substantially accomplished, shall grant such application.

In any rehabilitation proceeding the court may authorize the receiver to employ such counsel and other assistants as may be necessary for the proper conduct of such proceeding. The compensation of such counsel and assistants and all other necessary expenses of conducting such proceeding shall be paid out of the funds or assets of the corporation in the possession of the receiver.

In the event of liquidation or dissolution of a non-profit hospital service corporation the assets remaining after the payment of outstanding liabilities shall be distributed equitably to the hospitals with whom the corporation has contracts, or to the subscribers, or both, as the court may order.

1950, 766, s 1.

Section 24. Contingent Reserve Fund. Every such corporation shall set aside at the end of each calendar year out of its surplus funds, if any, but not otherwise, a special contingent reserve fund in an amount equal to, for the first year, the sum of one half of its then surplus funds, over and above its liabilities, and three per cent of its net premium written during the current calendar year, which three per cent of premium written, however, shall not



exceed fifteen per cent of its incurred losses during such calendar year; thereafter, it shall at the end of each succeeding calendar year from any available surplus funds so increase such contingent reserve fund that on December thirty-first of each such year the amount of the contingent reserve fund shall exceed the required amount on the next preceding December thirty-first by an amount equal to five per cent of the net premium income of such corporation during such whole calendar year; provided, however, that the contingent reserve fund at the end of any calendar year shall not exceed forty per cent of its incurred losses during such calendar year. Such contingent reserve fund may be withdrawn or reduced below the amount required by this section with the approval of the commissioner of insurance. No other reserves except for actual liabilities shall be required.

1950, 766, s 1.

Section 25. Agents; Licenses, Issuance, Revocation; Hearings, etc. Upon written notice by a non-profit hospital service corporation of its appointment of a person to act as its agent whose compensation in whole or in part is computed on a commission basis, the commissioner of insurance, in this section called the commissioner shall, if he is satisfied that the appointee is a suitable and competent person of full age and intends to hold himself out and carry on business in good faith as an agent and upon payment by the corporation of a fee of two dollars, issue to him a license which shall state in substance that the person named therein is the constituted agent of the non-profit hospital service corporation in the Commonwealth. Such notice shall be upon a form furnished by the commissioner, and shall be accompanied by a statement executed on oath by the appointee which shall give his name, age, residence, present occupation, his occupation for the five years next preceding the date of the notice, and such other information as the commissioner may require upon a form furnished by him. The commissioner may, at any time, for cause shown and after a hearing, revoke the license or suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the license while so suspended, and shall notify both the corporation and the agent in writing of such revocation or suspension. A license issued hereunder shall expire on the thirtieth day of June next after its issue,

unless sooner revoked or suspended as aforesaid, or unless the corporation, by a written notice filed with the commissioner, cancels the authority of the agent to act for it. Such license may, in the discretion of the commissioner and upon payment by the corporation of said fee, be renewed for any succeeding year by a renewal certificate without requiring anew the detailed information hereinbefore specified. Every corporation shall be bound by the acts of the person named in the license within the scope of his apparent authority as its acknowledge agent while such license remains in force. Notices of hearings required by this section shall be deemed sufficient when sent postpaid by registered mail to the last business or resident address of the licensee appearing on records of the commissioner. The affidavit of the commissioner or of any person authorized by him to send such notice that such notice has been sent in accordance with this section shall be prima facie evidence that such notice was duly given. This section shall not apply to an officer of a non-profit hospital service corporation acting for such corporation in the negotiation, continuance or renewal of any subscriber's contract which it may lawfully make.

1950, 766, s 1.

Section 6. Salaries, Compensation, etc., Regulated. No corporation subject to this chapter shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor any salary, compensation or emolument amounting in any year to more than ten thousand dollars to any person, unless such payment be first authorized by a vote of its board of directors. No corporation subject to this chapter shall make any agreement with any of its officers, trustees or employees whereby it agrees that for any services rendered or to be rendered he shall receive any salary, compensation or emolument for a period of more than three years from the date of such agreement.

1950, 766, s 1.

Section 27. Chapter 175, Section 138A, Applicable to Pay-roll Deductions for Contract Payments. The pertinent provisions of section one hundred and thirty-eight A of chapter one hundred and seventy-five shall apply to deductions on payroll schedules from the salary of any state, county or municipal employee for the payment of the amount payable by such an

employee under a contract issued to him as a subscriber by a ~~non-profit hospital service~~ corporation described in this chapter.

1950, 766, s 1.

Section 27A. Accident, etc., Insurance System for State Employees; Special Commission. There shall be established within the commission on administration and finance, but not under its jurisdiction, a ~~special unpaid commission~~ consisting of the commissioner of administration, the commissioner of insurance, and a state employee to be named by the governor. Said special commission is hereby authorized to negotiate each year with insurance companies or non-profit hospital and medical service corporations and carry into effect a system of prepaid general or blanket accident, hospitalization, medical and surgical insurance for the protection of the officers and employees of the commonwealth and their dependents.

All negotiations shall be completed not later than June first of each year and shall become effective for the succeeding state fiscal year. The special commission is further authorized to purchase the most beneficial general or blanket accident, hospitalization, medical and surgical insurance on behalf of those officers and employees of the commonwealth as shall elect to be so insured. The premiums for such insurance as may be elected by the officers and employees of the commonwealth shall with their consent be deducted from their

salary or wages.

Any dividends which may accrue from such insurance shall be applied to reduce the cost of coverage for the succeeding year.

1951, 516.

Section 28. Penalties for Violations. Whoever violates any provision of this chapter for which no other penalty is provided by law, shall be punished by a fine of not more than five hundred dollars.

1950, 766, s 1.

Section 29. Chapter Applicable to All Non-profit Hospital Service Corporations, When; Exceptions. The provisions of this chapter shall be applicable on or after January first, nineteen hundred and fifty-one to all non-profit hospital service corporations heretofore or hereafter formed, except as otherwise herein provided and except that as to existing corporations those provisions of section two relating to the composition of the board of directors shall take effect as of the next annual meeting of any such corporation.

1950, 766, s 1.

Section 30. Invalidity of Certain Portions of Chapter, Effect. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

1950, 766, s 1.



## MEDICAL SERVICE CORPORATIONS

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## Sect.

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Section 1. Definitions. In this chapter the following words shall have the following meanings:

"Commissioner", the commissioner of insurance.

"Covered dependent", a dependent for whose medical care provision is made in a subscription certificate issued by a medical service corporation to a subscriber.

"Dependent" the spouse, child or foster child of a subscriber, or an adult relative dependent upon the subscriber for his support.

"Medical service", the medical services ordinarily provided by registered physicians in accordance with accepted practices in the community where the services are rendered.

"Medical service corporation", a corporation organized as provided by the provisions of this chapter for the purpose of establishing and operating a non-profit medical service plan.

"Non-profit medical service plan", a plan operated by a medical service corporation under the provisions of this chapter, whereby the cost of medical service furnished to subscribers and covered dependents is paid by the corporation to participating physicians and to such other physicians as are provided for herein.

"Participating physician", a registered physician who agrees in writing with a medical service corporation to perform medical service for subscribers and covered dependents and to abide by the by-laws, rules and regulations of such corporation.

"Registered physician", a physician registered to practice medicine in the commonwealth as provided in section two of chapter one hundred and twelve.

"Subscriber", a person who has subscribed to a non-profit medical service plan and to whom a subscription certificate has been issued in accordance with the provisions of section six.

1941, 306.

Section 2. Formation of Medical Service Corporation. For the purpose of establishing, maintaining and operating a non-profit medical service plan, seven or more persons may form a medical service corporation. Such a corporation shall be formed in the manner prescribed in and subject to section nine of chapter one hundred and fifty-five and sections six and eight to twelve, inclusive, of chapter one hundred and fifty-six, except as follows:

The agreement of association of a corporation having no capital stock may omit the statement of the amount of the capital stock and the par value and number of its shares. The fee to be paid to the state secretary upon the filing of the articles of organization shall be ten dollars.

The articles of organization specified in section ten of said chapter one hundred and fifty-six, with the records and by-laws of the corporation, shall be submitted to the commissioner instead of to the commissioner of corporations and taxation, and he shall have the powers and perform the duties relative thereto specified in section eleven of said chapter one hundred and fifty-six.

The certificate issued by the state secretary under section twelve of said chapter one hundred and fifty-six shall be modified to conform to the requirements of this section.

The commissioner shall not approve the articles of organization of such a corporation until he is satisfied by such examination as he may make and such evidence as he may require, that the incorporators are of good repute and intend in good faith to operate the corporation. He shall execute a certificate of his findings, which shall be attached to the articles of organization prior to the filing thereof with the state secretary.

1941, 306.

Section 3. By-Laws, Rules and Regulations. The by-laws of a medical service corporation may contain any lawful provisions approved by the commissioner and shall provide that a majority of the directors shall at all times be persons approved in writing by a medical society incorporated in the commonwealth not less than ten years and having not less than two thousand registered physicians as members, and that not less than one third of the directors shall be persons who are or who agree to become subscribers to the non-profit medical service plan. The by-laws of such a corporation may define the qualifications of those persons eligible to become subscribers as provided in section five. Any such corporation may adopt such rules and regulations as may be consistent with the provisions of this chapter.

Any medical service corporation may contract with a corporation formed under chapter one hundred and seventy-six A for the joint or co-operative administration of their affairs.

1941, 306. 1948, 359.

Section 4. Contracts for Rendering Medical Service. Any medical service corporation may enter into contracts with its subscribers and with participating physicians and dentists, licensed under the laws of the commonwealth for such medical and surgical services as may lawfully be rendered by them to the subscribers and may pay for such services. A contract with a subscriber may provide for the medical and surgical care of any dependents of the subscriber named therein. The form of subscription certificate and of agreement with participating physicians and dentists, the rates charged by such corporation to the subscribers and the rates at which participating physicians and dentists are compensated for their services to the subscribers or to covered dependents, shall at all times be subject to the written approval of the commissioner. Acquisition costs in connection with the solicitation of subscribers and costs of administration shall

at all times be limited to such amounts as the commissioner shall approve.

1941, 306. 1950, 472.

Section 5. Who May Become Subscriber; Refusal or Cancellation of Subscription Certificate. Any person residing in the commonwealth shall have the right to become a subscriber of a medical service corporation if his qualifications meet those specified in the by-laws of such corporation may, in its discretion, refuse to issue a subscription certificate to, or upon due notice cancel the subscription certificate of, any person who has made any fraudulent claim or representation to the corporation or to a participating physician, or has been guilty of uncooperative or unethical dealings with the corporation, or has failed to pay dues and assessments seasonable and promptly or for any other cause which may be approved by the commissioner.

1941, 306.

Section 6. Issuance of Subscription Certificate; Form. A subscription certificate shall be issued to each subscriber of a medical service corporation. No subscription certificate shall be issued unless the commissioner shall have approved in writing the form of certificate nor unless it contains in substance the following provisions:-

(a) A statement of the medical service to be paid for by the corporation, and if any medical service is excepted, a statement of such exception.

(b) A statement of the duration of the agreement and of the terms and conditions upon which it may be extended, renewed, revised, canceled or otherwise terminated.

(c) A statement of the period of grace which will be allowed for making any payment due from the subscriber under the contract, which in any event shall not be less than ten days.

1941, 306.

Section 7. Agreement between Corporation and Participating Physician; Influencing Choice of Physician; Termination. Every registered physician shall have the right, on complying with such rules and regulations as the corporation may make, to enter into a written agreement with a medical service corporation, doing business in the city or town where the said physician resides or has his usual place of business, to perform medical service. This chapter shall not change the normal relations between physician and patient. No restriction



shall be placed by any such corporation upon its participating physicians as to methods of diagnosis or of treatment. No officer, agent or employee of a medical service corporation shall influence or attempt to influence a subscriber or a covered dependent in his choice of a participating physician. A subscriber or a covered dependent, subject to the by-laws, rules and regulations of a medical service corporation and the terms and provisions of his subscription certificate, shall be entitled to the benefits of this chapter upon receiving medical service from any participating physician or, in the discretion of the corporation, upon receiving medical service from any non-participating physician in an emergency or when outside the commonwealth. A corporation may terminate its agreement with any participating physician at any time (a) for failure to comply with the reasonable rules and regulations of such corporation, including without limitation such rules and regulations as may be adopted governing the keeping of accounts, records, and statistics, the making of reports and proof of services rendered, or (b) for presenting any fraudulent, unreasonable, or improper claim for payment, or compensation.

1941, 306.

Section 8. Annual Statement: Every medical service corporation shall annually, on or before the first day of March, file in the office of the commissioner a statement, verified by at least two of the principal officers of said corporation, showing its condition as of the thirty-first day of December next preceding. Such statement shall be in such form and shall contain such matters as the commissioner shall prescribe. A corporation neglecting to file its annual statement within the time herein specified shall forfeit one hundred dollars for each day during which such neglect continues, and upon notice by the commissioner to that effect, its authority to do business shall cease while such default continues.

1941, 306.

Section 9. Visitation and Examination of Affairs of Corporation; Witnesses; Books, Records, etc. The commissioner, or any deputy examiner or any other person designated by the commissioner, shall, at least once in three years, and whenever the commissioner deems it prudent, visit any medical service corporation and examine into its affairs. The commissioner shall have free access to all of the books, records and papers of the corporation, and may summon and examine under oath its officers, agents, employees and other persons in relation

to its affairs and condition. The commissioner shall require every such corporation to keep its books, records, accounts and vouchers in such a manner that he or his authorized representatives may readily verify its annual statements and determine whether the corporation has complied with the law.

1941, 306.

Section 10. Investments; Real Estate; Special Contingent Surplus. The funds of a medical service corporation shall be invested only in such securities as are permitted by chapter one hundred and seventy-five for the investment of the capital of insurance companies or in the purchase of share accounts of a federal savings and loan association located in the commonwealth in an amount not in excess of ten per cent of the combined surplus and contingent surplus, or it may deposit the whole or any portion of its funds in any savings bank or savings department of a trust company organized under the laws of the commonwealth or a national banking association. It shall have the right to acquire and own real estate to be occupied by itself in the transaction of its business. The commissioner may require any such corporation after the first full calendar year of doing business to accumulate and maintain a special contingent surplus, over and above its reserves and liabilities, in such amount as the commissioner may deem proper.

1941, 306.

1950, 394.

Section 11. Compensation of Corporate Officers and Others. Unless each such payment is first authorized by a vote of its board of directors, no medical service corporation shall pay any salary, compensation or emolument to any officer, trustee or director thereof, or any salary, compensation or emolument to any person amounting in any year to more than five thousand dollars. No such corporation shall make any agreement with any of its officers, trustees or employees whereby it agrees that for any services rendered or to be rendered to it, they shall receive any salary, compensation or emolument for a period of more than three years from the date of such agreement.

1941, 306.

Section 12. Dispute between Corporation and Participating Physician or Subscriber, etc.; Review of Decisions. Any dispute or controversy arising between a medical service corporation and any participating physician, or any subscriber, or any person whose subscription certificate has been canceled or to whom such corpor-

(To be inserted in place of Section 10, on page 172L.)

Section 10. The funds of a medical service corporation shall be invested only in such securities as are permitted by chapter one hundred and seventy-five for the investment of the capital of insurance companies or in the purchase of share accounts of a federal savings and loan association located in the commonwealth in an amount not in excess of ten per cent of the combined surplus and contingent surplus; or it may deposit the whole or any portion of its funds in any savings bank or savings department of a trust company organized under the laws of the commonwealth or a national banking association or on paid-up shares and accounts of and in a co-operative bank. It shall have the right to acquire and own real estate to be occupied by itself in the transaction of its business. The commissioner may require any such corporation after the first full calendar year of doing business to accumulate and maintain a special contingent surplus, over and above its reserves and liabilities, in such amount as the commissioner may deem proper.

1954, 276, s 1.





ation has refused to issue such certificate may within thirty days after such dispute or controversy arises be submitted by any person aggrieved to a board serving in the division of insurance and consisting of the commissioner or a person designated by him, the chairman of the board of registration in medicine or any person designated by him, and the attorney general or a person designated by him, for its decision with respect thereto. All decisions and orders of the board or of the commissioner made under any provision of this chapter may be revised as justice and equity may require upon a petition in equity filed, within ten days after the promulgation of such decision or order in the superior court within and for the county of Suffolk by any party aggrieved by such decision or order.

1941, 306.

Section 13. Enjoining Transaction of Business; Receivership and Liquidation. If the commissioner is satisfied, as to any medical service corporation, that (1) it has failed to comply with the provisions of its charter, or (2) it is being operated for profit, or (3) it is fraudulently conducted, or (4) its condition is such as to render its further transaction of business hazardous to the public or to its subscribers, or (5) its officers and agents have refused to submit to an examination under section nine, or (6) it has exceeded its powers, or (7) it has violated any provision of law, or (8) it has compromised, or is attempting to compromise, with its creditors on the ground that it is financially unable to pay its claims in full, or (9) it is insolvent, he may apply to the supreme judicial court for an injunction restraining it from further proceeding with its business. The court may forthwith issue a temporary injunction restraining the transaction of any business, and it may, after a full hearing, make the injunction permanent, and appoint one or more receivers to take possession of the books, papers, moneys and other assets of the corporation, settle its affairs, and distribute its funds to those entitled thereto, subject to such rules and orders as the court may prescribe.

1941, 306.

Section 14. Liability for Negligence or Malpractice, etc.; Exemption from Insurance Laws and Taxation. Every medical service corporation is hereby declared to be a charitable corporation. No such corporation shall be liable for injuries resulting from negligence or malpractice on the part of any participating

physician or of any of its employees, nor shall it be liable for the cost of medical services to which the subscriber or covered dependent may be entitled under the provisions of any workmen's compensation law. Every such corporation shall be exempt from all provisions of the insurance laws of the commonwealth, except as otherwise provided in this chapter. The property of every such corporation shall, except as hereinafter provided, be exempt from all state and local taxes.

1941, 306.

Section 15. (Repealed, 1951, 797, appvd. Nov. 17, 1951; effective 90 days thereafter.)

Section 16. Who May Operate Non-Profit Medical Service Plan. It shall be unlawful for any person, firm, corporation or association, except a medical service corporation, to establish, maintain or operate a non-profit medical service plan; provided, however, that this chapter shall not render unlawful or affect any operation or activity of any company organized under the provisions of chapter one hundred and seventy-five, or any society or fraternal benefit society organized under the provisions of chapter one hundred and seventy-six or subject to any of the provisions thereof, of any non-profit hospital service or medical service corporation organized under the provisions of chapter one hundred and seventy-six A or one hundred and seventy-six C, or of any corporation organized or to be organized under chapter one hundred and eighty, the existence, purposes, activities and operations of which were lawful or would be lawful notwithstanding the provisions of this chapter.

1941, 306.

Section 16A. Pay-Roll Deductions. The pertinent provisions of section one hundred and thirty-eight A of chapter one hundred and seventy-five shall apply to deductions on pay-roll schedules from the salary of any state, county or municipal employee for the payment of the amount payable by such an employee under a subscription certificate issued to him as a subscriber by a medical service corporation.

1943, 424, s. 6.

Section 17. Enforcement of Chapter. The provisions of this chapter may be enforced by a bill in equity brought in the supreme judicial court by the commissioner, the attorney general, or any district attorney.

1941, 306.



## NON-PROFIT MEDICAL SERVICE PLAN.

## Sect.

1. Definitions
2. Medical Service Plans and Corporations and Medical Organizations Governed by Chapter; Laws Relating to Insurance and Practice of Medicine.
3. Formation of Medical Service Corporations; Board of Directors.
4. Agreement of Corporation with Medical Organization to Provide Medical Services for Subscribing Members.
5. Physicians Composing Medical Organization; Agreement with Associated Physician.
6. Who May Become Associated Physician; Termination of Agreement with.
7. Who May Become Subscribing Member; Influencing Choice of Associated Physician.
8. Subscription Agreement Issued to Subscribing Member.
9. Annual Statement.
10. Visitation and Examination of Affairs of Corporation; Witnesses; Books, Records, etc.; Advice to Commissioner of Public Health.
11. Deposit of Funds.
12. Dispute between Corporation and Medical Organization; Review of Decisions.
13. Enjoining Transaction of Business; Receivership and Liquidation.
14. Exemption from Taxation; Liability for Negligence or Mal-practice.
15. Annual Return for Payment of Excise Tax.
16. Compensation of Corporate Officers and Others.
- 16A. Pay-Roll Deductions.
17. Medical Services, etc., Not Prohibited by Chapter.

Section 1. Definitions. In this chapter the following words and phrases shall have the following meanings:

"Medical Service plan", any plan or arrangement whereby members of the public pay regular subscription amounts and are entitled in return therefor to medical services.

"Medical service corporation", any nonprofit corporation which receives subscription payments from subscribing members and in return therefor makes available to subscribing members the benefits of any agreements which the corporation has with a medical organization for the rendering of care to its members.

"Medical organization", any medical society or partnership of physicians whose members are

members of the Massachusetts Medical Society or other recognized association of physicians, or whose members are members of the staff of any hospital approved by the American College of Surgeons, and which agrees to provide medical services to the subscribing members of a medical service plan.

"Associated physician", any physician duly licensed to practice medicine in the commonwealth who complies with the qualifications, rules and regulations of a medical organization approved by the department of public health and who agrees in writing with the medical organization to perform any of the medical services specified in the form of subscribing members' agreement issued by a medical service corporation, and who agrees to accept compensation therefor in the manner hereinafter set forth.

"Recognized association of physicians", an organized medical society or association, membership in which is contingent upon established professional qualifications and which is nationally recognized in the medical profession.

"Subscribing member", any member of the public who is accepted as a subscribing member, with or without dependents, by a medical service corporation and who pays regular subscription dues to such corporation.

1941, 334.

Section 2. Medical Service Plans and Corporations and Medical Organizations Governed by Chapter; Laws Relating to Insurance and Practice of Medicine. Any medical service plan, and any medical service corporation or medical organization operating in connection with a medical service plan, under the laws of the commonwealth, shall be governed by this chapter and shall, except as otherwise provided by this chapter, be exempt from all provisions of the insurance laws of the commonwealth. Any medical service corporation operating under this chapter shall not be deemed to be practicing medicine and shall be exempt from the provisions of Chapter one hundred and twelve relating to the practice of medicine.

1941, 334.

Section 3. Formation of Medical Service Corporation; Board of Directors. Persons desiring to form a medical service corporation shall incorporate as provided in section three

of chapter one hundred and eighty. Every certificate of organization of a medical service corporation formed under this chapter, before being filed under chapter one hundred and eighty, shall have endorsed thereon or attached the consent of the department of public health and of the commissioner of public welfare. The board of directors of a medical service corporation shall number not less than nine, of whom at least three and not more than one third shall be subscribing members of such a medical service corporation and of whom at least three and not more than one third shall be physicians who are members of the Massachusetts Medical Society or other recognized association of physicians and who are not associated physicians of the medical service plan.

1941, 334.

Section 4. Agreement of Corporation with Medical Organization to Provide Medical Services for Subscribing Members. No medical service corporation shall, through its own agents or employees, provide any medical services, but any such corporation may enter into an agreement with one or more medical organizations whereby said medical organization or organizations agree to provide specified medical services for the subscribing members of the said medical service corporation; provided, that said agreement shall provide for the payment of a stipulated percentage or percentages of the subscriptions or other receipts, or both, of the medical service corporation to the medical organization and shall not provide for any specific amounts, whether or not based upon the number of services rendered to subscribing members. Any such agreement shall be subject to the approval of the department of public health.

1941, 334.

Section 5. Physicians Composing Medical Organization; Agreement with Associated Physician. Any medical organization shall consist of not less than five physicians who are duly registered to practice in the commonwealth and who are members of the Massachusetts Medical Society or other recognized association of physicians, or are members of the staff of any hospital approved by the American College of Surgeons. Any medical organization may enter into an agreement with any duly registered physician whereby such associated physician agrees to furnish medical services to the subscribing members of a medical service corporation with which the medical organization has an agreement and whereby such associated physician agrees to

accept as payment for said services a proportion of the funds received by the said medical organization from the said medical service corporation. Such agreement to accept payment for services shall provide for payment according to units of funds received by the said medical organization and shall not provide for specified amounts, whether according to the services rendered by the said physician or otherwise. Nothing herein shall change the normal relations between patient and physician nor prohibit any medical organization from employing a medical director and assistants, or nurses, or establishing a clinic for the rendering of medical services. Any such agreement between a medical organization and its associated physicians shall be subject to the approval of the department of public health.

1941, 334.

Section 6. Who May Become Associated Physician; Termination of Agreement with. Every registered physician who complies with the qualifications, rules and regulations of a medical organization doing business in the community where such physician resides or practices, approved by the department of public health, shall have the right to become an associated physician of said medical organization. A medical organization may terminate its agreement with any associated physician for rendering any fraudulent or improper claim for payment or for failure reasonably to observe the approved rules and regulations of such medical organizations including those governing the reports of services and the keeping of accounts and records or for failure to comply with the professional code of ethics as accepted by organized medicine.

1941, 334.

Section 7. Who May Become Subscribing Member; Influencing Choice of Associated Physician. Any person residing in the commonwealth who meets the qualifications specified in the by-laws of a medical service corporation shall have the right to become a subscribing member of the corporation. No officer, agent or employee of a medical service corporation shall influence or attempt to influence a subscribing member, or his dependent, in his choice of an associated physician. Any medical service corporation may, at its discretion, deny the right of membership to any person who makes any fraudulent claim or representation to the medical service corporation or associated physician or who has failed after a reasonable period of grace, to pay dues or other charges as provided in the subscription agreement, or for any other cause which may be approved by the department of public health.

1941, 334.



Section 8. Subscription Agreement Issued to Subscribing Member. A subscription agreement in a form approved by the department of public health shall be issued to each subscribing member of a medical service corporation. Such agreement shall include a full and accurate statement of the benefits of membership, the medical services excluded if any, and the terms of duration, cancellation and termination. The by-laws, rules and regulations of a medical service corporation may by reference be incorporated in the subscription agreement; provided, that a full and complete copy of said by-laws, rules and regulations shall be available to any subscriber.

1941, 334.

Section 9. Annual Statement. Every medical service corporation shall annually on or before the first day of March file in the office of the commissioner of insurance a statement verified by at least two of the principal officers of said corporation showing its condition as of the thirty-first day of December next preceding. Said statement shall be in such form and shall contain such other matters as the commissioner of insurance shall prescribe. A corporation neglecting to make and file its annual statement in the form and within the time herein specified shall forfeit one hundred dollars for each day during which such neglect continues after notification by said commissioner of such neglect, and thirty days after said notice said commissioner may terminate its authority to do new business while such default continues.

1941, 334.

Section 10. Visitation and Examination of Affairs of Corporation; Witnesses; Books, Records, etc.; Advice to Commissioner of Public Health. The commissioner of insurance or any deputy or other person whom the said commissioner shall designate shall, at least once in three years and whenever he deems it to be prudent, visit any such medical service corporation and examine into its affairs, shall have free access to all of the books, papers and documents of the corporation that relate to its business and may summon as witnesses and examine under oath its officers, agents or employees or other persons in relation to its affairs, transactions and condition. The commissioner of insurance shall require every such corporation to keep its books, records, accounts and vouchers in such manner that he or his authorized representatives may readily verify its

annual statements and ascertain whether the corporation has complied with the law. The commissioner of insurance is authorized and directed on request of the commissioner of public health to advise him on any financial, accounting, bookkeeping or other similar question arising out of the operation of any medical service plan.

1941, 334.

Section 11. Deposit of Funds. The funds of any corporation subject of this chapter shall be kept only in banks in which funds of the commonwealth are authorized to be deposited, or by investing in share accounts of federal savings and loan associations located in this commonwealth in accordance with the authority and limitations specified in section ten of chapter one hundred and seventy-six B.

1941, 334.

1950, 394, s 2.

Section 12. Dispute between Corporation and Medical Organization; Review of Decisions. Any dispute arising between a medical service corporation and any medical organization with which such corporation has an agreement as provided by this chapter may be submitted to the department of public health for its decision with respect thereto. All decisions and findings of any state department or officer made under any provision of this chapter may be revised by proper proceedings in the superior court.

1941, 334.

Section 13. Enjoining Transaction of Business; Receivership and Liquidation. If the department of public health is satisfied as to any corporation subject to this chapter that:

1. It has failed to comply with the provisions of its charter, or
  2. It is being operated for profit, or
  3. It is fraudulently conducted, or
  4. Its condition is such as to render its further transaction of business hazardous to the public or to its subscribers, or
  5. Its officers and agents have refused to submit to an examination under section ten, or
  6. It has exceeded its powers, or
  7. It has violated any provision of law,
- it may apply to the supreme judicial court for an injunction restraining such corporation from further proceeding with its business. The court may forthwith issue a temporary injunction restraining the transaction of any business, and it may after a full hearing make the injunction permanent and appoint one or more receivers to take possession of the books, papers, monies and

CHAP. 176C

(To be inserted in place of Section 11, on  
Page 172P.)

Section 11. The funds of any corporation subject to this chapter shall be kept only in banks in which funds of the commonwealth are authorized to be deposited, or by depositing on-paid-up shares and accounts of and in co-operative banks, or by investing in share accounts of federal savings and loan associations located in this commonwealth in accordance with the authority and limitations specified in section ten of chapter one hundred and seventy-six B.

1954, 276, s. 2





other assets of the corporation, settle its affairs, and distribute its funds to those entitled thereto, subject to such rules and orders as the court may prescribe.

1941, 334.

Section 14. Exemption from Taxation; Liability for Negligence or Malpractice. Every corporation subject to this chapter is hereby declared to be a charitable and benevolent corporation and, except as hereinafter provided, its property shall be exempt from state, county, district and municipal taxes. No such corporation nor any medical organization shall be liable for injuries resulting from negligence or malpractice on the part of any associated physician or any of its employees.

1941, 334.

Section 15. Annual Return for Payment of Excise Tax. Every corporation subject to this chapter shall annually on or before March first, make a return to the commissioner of corporations and taxation, signed and sworn to by a majority of its board of directors, of the total amount of subscription dues paid by subscribing members during the preceding calendar year, and shall pay to said commissioner an excise of one per cent upon the amount of such dues. If said corporation neglects to make such return, it shall forfeit fifty dollars for each day such neglect continues.

1941, 334.

Section 16. Compensation of Corporate Officers and Others. No corporation subject to this chapter shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor shall any such corporation pay any salary, compensation or emolument, amount-

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ing in any year to more than five thousand dollars, to any person, unless such payment be first authorized by a vote of its board of directors. No corporation subject to this chapter shall make any agreement with any of its officers, trustees or employees whereby it agrees that for any services rendered or to be rendered he shall receive any salary, compensation or emolument for a period of more than three years from the date of such agreement.

1941, 334

Section 16A. Pay-Roll, Deductions. The pertinent provisions of section one hundred and thirty-eight A of chapter one hundred and seventy-five shall apply to deductions on pay-roll schedules from the salary of any state, county or municipal employee for the payment of the amount payable by such an employee under a contract issued to him as a subscribing member by a medical service corporation.

1943, 424, s 7.

Section 17. Medical Services, etc., Not Prohibited by Chapter. Nothing herein shall be construed to prohibit the providing of medical services by an educational or other charitable institution to the persons whom it serves, nor to prohibit any business organization from providing medical services for its employees, nor to prohibit an insurance company, or other corporation or society which is subject to the supervision of the commissioner of insurance, from operating in accordance with the laws governing insurance companies of such corporations or societies.

1941, 334.





## Chapter 207

## Marriage

Sect.

28A Notice of intention of marriage, physician's certificate (as amended by Chapter 113 of the Acts of 1950.)

**SECTION 28A. NOTICE OF INTENTION OF MARRIAGE, PHYSICIAN'S CERTIFICATE.** Except as hereinafter provided, a certificate shall not be issued by the clerk or registrar under section twenty-eight until he has received from each party to the intended marriage a medical certificate signed by a qualified physician registered and practicing in the commonwealth, a physician registered or licensed to practice in any other state or territory of the United States, or the District of Columbia, or a commissioned medical officer on active service in the armed forces or the public health service of the United States, or a qualified physician registered and practicing in Canada, who has examined such party as hereinafter provided. Such examination shall be made only to ascertain the presence or absence of evidence of syphilis, and shall include a recognized serological test for syphilis. Said test shall be made by a laboratory of the department of public health, or by a laboratory meeting standards approved by said department or, if not located within the commonwealth, acceptable to said department. The examination by such physician and the laboratory test shall be made not more than thirty days before a certificate is issued under section twenty-eight. If such physician, in making such examination, discovers evidence of syphilis, he shall inform both parties to the intended marriage of the nature of such disease and of the possibilities of transmitting such infection to his or her marital partner or to their children. The physician shall also certify on forms provided by said department that the applicant therein named has been given an examination, including a serological test for syphilis, on a day specified in the statement, and that, in the opinion of the physician, the person therein named is not infected with syphilis, or, if so infected, is not in a stage which is communicable, but if such infection is communicable, no such certificate shall be issued. Blank

forms of medical certificates required under this section shall be furnished to city and town clerks and others by said department of public health, and all entries shall be made on said forms, except as hereinafter provided. Medical certificates issued by the department of health of any other state or territory in the United States, the District of Columbia, and Canada shall be deemed acceptable, provided they are signed by a qualified physician licensed and practicing in the areas mentioned, and certifying that, on the basis of a physical examination and a serological test performed at a laboratory acceptable to the department of public health of this commonwealth, the person therein named does not have syphilis, or, if so infected, is not in a stage which is communicable. The name of the laboratory performing the test shall appear upon the medical certificate. The clerk or registrar receiving such medical certificates in the case of an intended marriage shall endorse on the certificate to be issued by him under section twenty-eight in relation to the marriage a statement that such medical certificates have been received. In emergency cases where the death of either party to the intended marriage is imminent, or where the female is near the termination of her pregnancy, upon the authoritative request of a minister, clergyman, priest, rabbi or attending physician, the clerk or registrar may issue a certificate under section twenty-eight without having received the medical certificate, or having endorsed on his certificate a statement of such receipt, as provided by this section. Whoever, being subject to the laws of the commonwealth, fails to comply with any provision of this section shall be punished by a fine of not less than ten nor more than one hundred dollars.

1941, 697

1943, 561

1950, 113





ing eighteen sections, except as hereinafter otherwise provided.

1702, 11, § 1.	1922, 349, § 1.	114 U. S. 606.
1795, 62, § 1.	1923, 457, § 1.	3 Op. A. G. 538.
R. S. 115, § 1.	1926, 393, § 1.	6 Op. A. G. 514, 515,
G. S. 148, § 1.	1929, 288, § 1.	545, 546.
P. S. 189, § 1.	16 Gray, 417.	7 Op. A. G. 560, 720.
R. L. 195, § 1.	148 Mass. 1.	8 Op. A. G. 355.
1918, 289, § 1.	154 Mass. 579.	Op. A. G. (1935) 42.
G. L. 252, § 1.		

**SECTION 2. State Reclamation Board, Composition, etc.** One employee of the department of public health designated by it, one employee of the department of agriculture designated by it and a third member designated by the heads of said departments acting jointly and with the approval of the governor and council shall constitute the state reclamation board, in the fourteen following sections called the board. The designation of any member of said board may be revoked at any time, and in such case or in case of the resignation or disability of any member his successor shall be designated in the same manner as in the original designation. The board shall serve in the department of agriculture, and the members thereof shall receive no additional compensation for service on said board, but shall be entitled to their reasonable traveling and other expenses incurred in the performance of their duties.

1918, 289, § 2.	1922, 349, § 2.	1926, 393, § 2.
1919, 250, §§ 34, 96.	1923, 457, § 1.	8 Op. A. G. 355.
G. L. 252, § 2.		

**SECTION 3. Investigation by Reclamation Board; Annual Report.** The board may investigate the question of utilizing the wet lands, including meadows, swamps, marshes, beaches and other low lands, and may ascertain what lands, if any, may advantageously be drained for agricultural or industrial uses, the protection of the public health, the utilization of deposits therein, or for other purposes. It may publish and disseminate facts of general interest ascertained in the conduct of any such investigation, and may make and publish surveys of tracts of land in need of drainage, showing their situation, areas and outlets, the best methods and the cost of draining them, the uses to which they are best adapted, and such other details as it deems advisable. It shall make an annual report.

1917, 212, § 1.	G. L. 252, § 3.	1926, 393.
1918, 289, § 2.	1923, 457, § 1.	8 Op. A. G. 355.
1919, 98.		

**SECTION 4. Employment of Engineers, Agents, etc.** In carrying out the provisions of sections one to fourteen B, inclusive, the board may employ necessary engineers, assistants or other agents, who may enter on land which the board desires to survey or examine. The board shall also be allowed other necessary expenses incurred in the performance of its duties.

1917, 212, § 2.	G. L. 252, § 4.	1923, 457, § 4.
1918, 289, § 3.	1922, 349, § 3.	8 Op. A. G. 355.
1919, 98.		

**SECTION 4A. Hearings, Notice, Rights of Individuals and Corporations, etc.** The commonwealth, acting through one or more state departments, or through the metropolitan district commission in respect to the metropolitan parks or water district or either metropolitan sewerage district, and any city, town or district, or any combination thereof, to

the extent of their ownership of any area described in section one, may be parties, in their proprietary capacity, to proceedings under sections one to fourteen C, inclusive, in respect to any purpose set forth in said section one, to the same extent as individual proprietors. Said bodies politic, or any combination thereof, may also institute proceedings under said sections in their governmental capacity, in any case where it appears that the public health, safety or convenience will be promoted by improvements to effect any of said purposes, but in such proceedings no district shall be organized, and the improvements shall be constructed and maintained as provided in section five A. The petition in such a proceeding need cover only matters pertinent to the project therein set forth, and the provisions of section five requiring that the petitioners constitute a majority ownership of the lands affected shall not apply to such petition. Individuals and corporations qualifying as proprietors may join in any petition authorized in this section. Action by any such body politic hereunder shall be taken by the administrative head of the state department or commission, or by the mayor, selectmen, or prudential committee or other governing body, as the case may be. Notice of the hearing before said board on such a petition shall be given as provided in the first paragraph of section five to all petitioners and to the administrative heads of such state departments and commissions, mayors of such cities, selectmen of such towns, and the prudential committees or other governing bodies of such districts, as the said board may determine, and to all other known proprietors of lands to be affected by such improvements. Cities, towns and districts are hereby authorized to raise and appropriate money for such purposes.

G. L. 252, § 4A.	8 Op. A. G. 355.
1929, 288, § 2.	Op. A. G. 1930 (42).

**SECTION 5. Petition to the Board; Appointment of District Reclamation Commissioners and their Compensation.** The proprietors of any area described in section one or a majority in interest either in value or area may petition the board setting forth their desire to improve such area, the necessity or desirability of such improvements, the objects to be accomplished, a general description of the lands proposed to be affected and the names of known owners of said lands. Upon receipt of said petition and of a sum sufficient to meet its expenses therefor, the board shall proceed to make such investigations and such surveys of said lands as may be necessary to determine the approximate area and boundaries thereof, the need of the proposed amendments, the probable benefit, if any, to the public health, the agricultural or other uses to which the lands can be put and their probable value for such uses after the improvements are completed, and in general the practicability and advisability of undertaking the proposed improvements. Any unexpended balance of the amounts so received shall be reimbursed to the contributors in proportion to their contributions. If such improvements appear to the board to be advisable and practicable, the board shall give notice of the petition therefor by publication in a newspaper published in the county where the greater part of the land lies and by registered mail to each known



proprietor, stating the date of a hearing to be held by the board not less than seven days after the publication of said notice and the date of mailing notices to the proprietors. After the hearing, if the board approves the proposed improvements, it shall determine whether or not the organization of a reclamation district is necessary to construct and maintain said improvements.

If the board decides that a district should be organized, it shall issue a certificate appointing three, five or seven district commissioners, who shall be sworn to the faithful performance of their duties, and shall authorize said commissioners to form a reclamation district under the following section. The board shall fix the compensation of said commissioners, which shall not exceed five dollars for each day of actual service, and shall allow them their necessary traveling expenses incurred in the performance of their duties. Such compensation and expenses shall be paid by the district and the district shall reimburse the contributors to the expenses of the board the amounts of their several contributions less any unexpended balances returned to them as hereinbefore provided, and said expenditures shall be a part of the total expense of the improvements. Any commissioner may be removed by the board for cause and the board may fill vacancies. The certificate of appointment of said commissioners shall be revoked by the board when the objects for which they were appointed have been accomplished. For the purpose of this and the eleven following sections, a mortgagor or mortgagee in possession shall be deemed a proprietor.

1702, 11, §§ 1, 2.	1876, 228.	1922, 349, § 4.
1795, 62, §§ 1, 3, 4.	P. S. 189, §§ 2, 3,	1923, 457, § 1.
R. S. 115, §§ 2-4,	9, 12.	1926, 298, § 3.
10, 18.	R. L. 195, §§ 2, 3,	119 Mass. 583.
G. S. 148, §§ 2, 3,	9, 12.	6 Op. A. G. 514.
9, 12.	1918, 289, §§ 4, 16.	7 Op. A. G. 560, 720.
1869, 387.	G. L. 252, § 5.	8 Op. A. G. 355.

**SECTION 5A. Powers, Duties, etc., of Board.** If the board determines that the proposed improvements should be undertaken and that their construction and maintenance may be effected without the formation of a district, and in every such case where the board is petitioned by a body politic in its governmental capacity under section four A, it shall notify all persons and bodies politic to be benefited thereby of the estimated expense of constructing the proposed improvements, including land damages, if any, and of the maintenance thereof. Upon receipt of sums of money sufficient to cover such estimated construction expense, or of any money which can be used for such purposes to the advantage of the contributors, the board shall designate an identifying name under which said improvements shall be made and shall deposit the money so received with the state treasurer, who shall hold such money in a special fund or funds for such purpose, and shall disburse the same on warrants drawn by the board. The board shall thereupon issue a certificate appointing one or more commissioners, who shall be sworn to the faithful performance of their duties, and shall authorize said commissioners to proceed to make the improvements, which may be made at such places, either within or without the commonwealth, as may be necessary or convenient to make the improvements effective; and said commissioners

shall thereupon proceed so to do. The board shall fix the compensation of said commissioners and shall allow them their necessary travel and other expenses necessarily incurred in the performance of their duties. Such compensation and expenses shall constitute a part of the expense of making and maintaining such improvements. Any commissioner may be removed by the board for cause and the board may fill vacancies. The board may discharge the commissioners when the improvements are completed and may appoint others to care for maintenance. Any excess funds received under authority of this section shall be returned to the contributors thereof in proportion to the contributions. If the sums so estimated are not sufficient to complete such improvements, the board shall determine the amount of the estimated additional cost thereof and shall notify the original contributors of their shares of such additional cost. The board shall instruct the commissioners not to continue with such improvements until such additional funds are received by the board, and such commissioners, after receipt of such instructions, shall incur no further expense in connection with such improvements until authorized so to do by the board. If one or more, but less than all, of several petitioners provide their respective proportions of the fund estimated as necessary to make such improvements, the board may appoint commissioners to make such portion of such improvements as, in its opinion, will benefit the contributors. For the purpose of effecting such improvements and providing for their maintenance as provided in this section, the board shall have all the powers conferred by sections two, three, four, five, except the last paragraph thereof, and eight, and the commissioners by it appointed shall have all the powers conferred upon district commissioners under sections twelve and thirteen, provided that in taking by eminent domain or acquiring by purchase, gift or otherwise, land or other property or any interest therein, the commissioners so appointed shall take or acquire the same in the name and on behalf of the city or town wherein the land or other property or interests are situated, but not until such city or town has duly authorized such taking, has assumed all liability for damages therefor and has complied with all provisions of law applicable to land takings by cities or towns. All amounts for which city or town may be liable hereunder, together with interest and costs, may be contributed by persons or bodies politic benefited by such improvements in proportion to their respective benefits or otherwise.

G. L. 252, § 5A.  
1929, 288, § 3.

8 Op. A. G. 355.  
Op. A. G. (1930) 42.

**SECTION 5B. Determination of Mosquito Breeding Areas as Public Nuisances by Local Boards of Health, etc.** The board of health of a city or town, not then included in an area designated by an identifying name for the purposes of section five A, or the commissioners appointed to make improvements on behalf of a mosquito control project under such a name as provided in said section, may determine any mosquito breeding area within the limits of such city or town or of such a project, to be a public nuisance, and the board of health or the commissioners, as the case may be, may abate such nuisance, in such



manner as may be approved by the board, and may maintain such works as may be necessary to prevent its recurrence. Before proceeding with such abatement, the board of health or the said commissioners shall notify the owners of such breeding area of the intended abatement, by publication in a newspaper published in the town wherein such area is situated, and shall appoint in the notice a time and place for hearing, and shall at such time and place hear all interested parties. In case an owner of any such area whereon it is proposed to undertake such an abatement objects thereto, he may appeal, not later than fourteen days after the date of said hearing, to the county commissioners, who shall, not later than fourteen days after receipt of notice of such appeal, hear the party or parties aggrieved, the board of health or the said commissioners, and the board or its agent. If the county commissioners shall, within two weeks thereafter, determine that the proposed abatement is required for the promotion of the public health, safety or convenience, the abatement may proceed, but not otherwise. A person damaged in his property by any work undertaken under this section may recover his damages in the manner provided in chapter seventy-nine from the city or town whose board of health undertakes such work, or from the county or counties wherein any city or town included in the mosquito control project is situated, in case such work is undertaken by the commissioners under section five A; provided that the petition to recover said damages shall be filed within thirty days after the right to the same has vested. All damages paid as aforesaid by the county commissioners shall be assessed upon the cities and towns included in the project on the basis of their taxable valuations as an addition to their respective quotas of the county tax.

1931, 181.

S Op. A. G. 355.

#### SECTION 6. Formation of Reclamation District.

The district commissioners, in this and the ten following sections called the commissioners, after being sworn, shall call a meeting of the proprietors of the lands to be improved, by giving in such manner as the board may order, a notice to each known proprietor, signed by the commissioners and setting forth the time and place of a meeting for the purpose of organizing a reclamation district to carry out the proposed improvements and maintain the same after they are completed. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting. The chairman of the commissioners or another commissioner designated by him shall call the meeting to order and shall determine whether or not proprietors constituting a majority in interest, in either value or area, are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. Lacking such a majority, the meeting shall have no power to act, but the commissioners may, in the manner above provided, call additional meetings for the same purpose. The meeting shall elect a temporary clerk, who shall be sworn, and a moderator. The moderator shall submit to the proprietors present the question of accepting sections one to fourteen B, inclusive, and of organizing a

reclamation district, and if a majority of those present in person or by proxy and voting on the question, vote to accept and to organize such district the provisions of said sections shall take full effect. The vote shall be recorded and a copy thereof shall be filed with the board. The meeting may then proceed to act upon the other articles, if any, contained in the warrant. Such district shall at the same meeting elect by ballot a district clerk and a district treasurer, who may be the same person, to hold office until one year from the next succeeding annual meeting and at each annual meeting after the first a clerk and treasurer shall be elected by ballot for one year. There shall also be elected by ballot a prudential committee of three members who shall hold office, one for three years, one for two years, and one for one year, from the next succeeding annual meeting. At each annual meeting after the first a member of said committee shall be elected by ballot for three years. The aforesaid officers of the district shall hold office until their successors are elected and qualified. The district may also, at the first or any subsequent meeting, borrow for preliminary or current expenses such sums as may be necessary and may issue therefor notes payable in not more than two years from their dates. Notes issued under this provision shall be subject to the provisions of chapter forty-four and to the other requirements for district notes imposed by section ten. The proceeds of such notes shall be held by the treasurer of the district, and payments therefrom shall be made only on vouchers duly approved by a majority of the prudential committee.

Subsequent meetings of the district shall be called by the clerk at the request of the commissioners or any two or more proprietors, or, in case the clerk neglects or refuses to call a meeting when so requested such meeting may upon application by said commissioners or two or more proprietors be called upon a warrant from a justice of the peace directed to one of the applicants and requiring him to give notice of said meeting as hereinafter provided. Notices of meetings shall be given by posting copies of the warrant in two or more public places within the district or by mailing copies of said warrant to each known proprietor at least seven days before the time set for the meeting. At each meeting a moderator shall be chosen who shall have the powers of the moderator of a town meeting so far as may be necessary. The clerk shall preside at each meeting after the first until a moderator is chosen.

The officers of the district shall be sworn to the faithful performance of their duties. Any vacancy occurring in the office of clerk, treasurer, or member of the prudential committee may be filled by the district for the remainder of the unexpired term at any legal meeting called for the purpose, or in case of a vacancy in the office of clerk or treasurer or disability affecting either of said officers the prudential committee may appoint a person to fill said vacancy until an election can be held or the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure thereof.

The prudential committee shall have charge of expenditures on account of the district for mainte-



nance of the improvements made under sections one to fourteen B, inclusive, and shall exercise the authority conferred upon the district by law except as otherwise expressly provided, and subject to the by-laws of the district and such instructions, rules and regulations as the district may impose by its vote.

The treasurer shall give bond for the faithful performance of his official duties in a sum and with sureties approved by the prudential committee. He shall receive all money belonging to the district except as otherwise specified in this and the ten following sections and shall make payments and account for the same in accordance with the requirements of sections one to fourteen B, inclusive, and of chapter forty-four so far as applicable, under direction of the district or of the prudential committee. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

A district organized under the provisions of this section may adopt by-laws consistent with the laws applicable to such district and subject to the approval of the board. Such by-laws may provide for proxy voting by the members at any or all meetings of the district. The district shall have such rights and powers as may be necessary and proper for operating and maintaining the improvements made by the commissioners, and for making, operating and maintaining such further improvements as may be authorized under section fourteen A. The members of the district shall be the proprietors from time to time of lands lying within its limits. No such district shall dissolve without specific authorization by the general court, which shall not be given until provision has been made for payment of the obligations of said district.

1918, 289, § 5.	1923, 457, § 1.	1926, 398, § 4.
G. L. 252, § 6.	1924, 98, §§ 1, 2.	§ Op. A. G. 355.
1922, 349, § 5.		

**SECTION 7. Surveys, Plans, etc., Recording in Registry, etc.** As soon as the district shall have been organized under the provisions of the preceding section the commissioners shall, under direction of the board, cause the necessary surveys and investigations to be made and shall prepare a plan showing in detail the boundaries of the district and the improvements to be effected. On the basis of such surveys and investigations the commissioners shall prepare an estimate of the total expense of the proposed improvements and shall determine the percentage of such expense to be paid by each proprietor, based on the estimated special benefit to his land in excess of the damage thereto by the use thereof for the proposed improvements. If such damage to the land of any proprietor exceeds the special benefit thereto they shall award him damages for such excess. They shall report their plan, estimate and determination to the board, which shall approve, disapprove or modify such plan and estimate. The commissioners shall also notify each proprietor of such determination by delivering a copy thereof at his residence or by sending the same by registered mail to his last known address and shall certify to the board the date on which such notice is given. If any proprietor is aggrieved by the determination

of the commissioners he may, within fifteen days after notice thereof, file with the board his objections thereto and if no such objections are filed by any proprietor within the fifteen days above specified then the determination of the commissioners shall be final. The board shall, within thirty days after receiving notice of objections by any proprietor against the determination, notify all the proprietors that such objections have been received and shall hold a hearing thereon, but such hearing shall not be held within seven days after notice is given to all the proprietors that objections have been filed. If objections are made by more than one proprietor all such objections shall be considered in one hearing. After such hearing the board may confirm or modify the determination and shall notify the proprietors of its decision. If any proprietor is dissatisfied with the action of the board he may petition the superior court in the county in which the greater part of the land included within the district is situated, making all the proprietors who have not joined in his petition parties respondent and praying for a revision of such decision, provided that such petition shall be entered not later than thirty days after notice of the decision. The court sitting without jury shall hear the petition and shall confirm or alter the percentages previously determined to be payable by any or all said proprietors, as justice may require. Such petition shall not operate to suspend or delay other proceedings by the board or commissioners on the land to be improved. The expenses incurred under this section shall constitute a part of the total expense of the improvements and shall be paid by the district in the same manner as the remainder of such expense.

As soon as the percentages payable as aforesaid by said proprietors in the case of original and of further improvements have been finally determined in accordance with this section the board shall on behalf of the reclamation district cause to be recorded in the registry of deeds of every county or district in which the benefited area is situated a description sufficiently accurate for identification of such area, a copy of a plan to which reference shall be made and also an estimate of the total amount to be assessed on each parcel of land within such area, all as set forth in section two of chapter eighty. No original or further improvements shall be approved by the board until after such recording.

1918, 289, §§ 6, 10.	1922, 349, § 6.	§ Op. A. G. 197, 253,
1920, 336.	1924, 98, § 3.	355.
G. L. 252, § 7.	1926, 398, § 5.	

**SECTION 8. Payment by State of Part of Expense, etc.** Should the board be of the opinion that a part of the expense of the improvements made under sections one to fourteen B, inclusive, should be paid by the commonwealth for the benefit of the public health of said commonwealth as a whole it shall estimate the amount which in its opinion should be so paid and shall include the same in its estimates under section four of chapter twenty-nine.

1702, 11 § 4.	14, 16, 17.	1926, 398, § 6.
1745-6, 6, 16, §§ 2, 4.	1885, 384, § 5.	1929, 288, § 4.
1795, 62, §§ 1, 5, 6.	R. L. 195, §§ 4, 5,	11 Met. 321.
R. S. 115, §§ 5, 6,	14, 16.	111 Mass. 454.
15-17.	1918, 289, §§ 9, 12.	3 Op. A. G. 538.
G. S. 148, §§ 4, 5,	G. L. 252, § 8.	8 Op. A. G. 197, 355.
14-16.	1922, 349, § 7.	Op. A. G. (1980) 42.
P. S. 189, §§ 4, 5,	1923, 457, § 1.	



**SECTION 9. Meeting, etc., for Method of Financing Improvements.** As soon as possible after the recording of the description, plan and estimate as provided in section seven, the commissioners shall request the clerk to call a meeting of the district for the purpose of deciding upon a method of financing such improvements in accordance with this or the following section; provided, that the commissioners may in their discretion insert an article covering this question in the warrant for the meeting called to organize the district and the district at said meeting or any adjournment thereof may decide upon a method of financing. Any action under this chapter which involves expenditure by the district shall require a vote of proprietors representing a majority in interest both in acreage and value of the area included in the district. The commissioners shall, if the district so votes, petition the county commissioners of the county where the greater part of the land lies, annexing a certified copy of the petition under section five and of the determination of the board thereon, and a statement of the estimated expense of the proposed improvements and shall request the county commissioners to vote to pay in the first instance the total expense involved in making the improvements approved by the board, and the said county commissioners may so vote. To defray any expense incurred by said county commissioners under such vote, the county treasurer, with the approval of the county commissioners, may issue bonds or notes of the county to an amount not exceeding such expense, payable in such period, not exceeding twenty-five years from their dates of issue, as the county commissioners may determine. Such bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell the said securities at public or private sale upon such terms and conditions as the county commissioners may deem proper, but not for less than their par value. The first payment on account of the principal may, if the county commissioners so decide, be deferred for not more than five years after the date of issue of the bonds or notes, but such bonds or notes shall be subject to the provisions of chapter thirty-five except as otherwise provided herein. Payments on account of principal and interest shall be made by the county and repaid to the county by the district.

1918, 289, § 11.  
G. L. 252, § 9.  
1922, 349, § 8.

1923, 457, § 1.  
1926, 393, § 7.

6 Op. A. G. 426.  
8 Op. A. G. 197, 355.

**SECTION 10. Petition to County Commissioners, etc., for Expense, etc.** The district may vote to adopt any of the three methods of financing herein-after specified. (1) If all the members of the district agree, the district may raise by assessments upon the proprietors or by voluntary contributions and deposit with the state treasurer the total sum required to meet the estimated expense of the improvements. Such deposits shall be held by the state treasurer to the credit of the district, and payments shall be made therefrom as provided in section fourteen. (2) The district may pay the whole expense of the improvements from time to time as the work is performed and for this purpose may incur debt by a temporary loan in anticipation

of the collection of assessments from the members of the district during the calendar year in which said debt is incurred or during the next succeeding calendar year. (3) The district may incur debt to the amount necessary to pay the estimated expense of the proposed improvements and may issue therefor notes or bonds, and may, if the board approves, issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than five years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than twenty-five years after such notes or bonds are issued.

Indebtedness incurred by the district under the provisions of this section or of section fourteen A shall be subject to chapter forty-four and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in sections one to fourteen B, inclusive. Money received from the sale of notes or bonds issued under this section shall be deposited with the state treasurer and held by him to the credit of the district. If the district issues notes or bonds and thereafter the general court makes an appropriation to cover such part, if any, of the expenses of the improvements as it shall deem to be for the benefit of the public health of the commonwealth as a whole, the state treasurer may, in his discretion, make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for payment of the expense of the improvements. If, after payment of the total expense of the improvements, money remains in the hands of the state treasurer to the credit of the district the same shall be paid to the treasurer of the district and shall be used to redeem outstanding notes or bonds which shall be cancelled by said district treasurer and not reissued. Bonds or notes issued under this section shall be the general obligations of the district by which they are issued.

1745-6, 16, §§ 1, 4.	P. S. 189, §§ 13, 15.	G. L. 252, § 10.
1795, 62, § 5.	1885, 384, § 5.	1923, 457, § 1.
R. S. 115, §§ 14, 18.	R. L. 195, §§ 13, 15.	1926, 393, § 8.
G. S. 148, §§ 13, 17.	1918, 289, §§ 17, 18.	

**SECTION 11. Assessments, etc., Powers and Duties of Collectors of Taxes, etc.** The clerk of the district shall certify to the assessors of the town or towns in which the land of the district lies all sums of money voted to be raised and all sums payable annually on account of the principal and interest due on bonds or notes issued under the provisions of section nine or ten, together with the amount to be paid by each proprietor according to the determination made under section seven, and said clerk shall also file an attested copy of such certification with the board. The amounts so certified shall be assessed upon the lands of the several proprietors within the area, and be committed to the collector of taxes of the town wherein the land assessed is situated, who shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The collector shall remit weekly to the



district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed therefore, and such lien shall take effect upon the recording of the description, plan and estimate under section seven, and shall continue for a period of two years from July first of the year of assessment.

1795, 62, § 3.	R. L. 195, § 10.	1923, 457, § 1.
R. S. 115, § 11.	1918, 289, § 14.	1926, 393, § 9.
G. S. 148, § 10.	G. L. 252, § 11.	8 Op. A. G. 355.
P. S. 189, § 10.	1922, 349, § 9.	

**SECTION 12. Commissioners to carry out Improvements, when, etc.** If sections one to seven, inclusive, have been complied with, and payment of the expense of the improvements has been arranged under section nine or ten, the commissioners shall carry out said improvements in such manner as the board may approve. The commissioners may employ suitable persons to perform the work under their direction. So far as may be necessary to effect the improvements as approved by the board, the commissioners may take on behalf of the district, in the manner provided by chapter seventy-nine, lands, easements and rights in lands, if the improvements are for a public use, and may purchase and convey real and personal property both within and beyond the limits of the commonwealth. Any person damaged in his property by any action under this or the following section may recover his damages from the district in the manner provided by said chapter seventy-nine and such damages shall constitute a part of the total expense of the improvements.

1795, 62, § 3.	R. L. 195, § 10.	1923, 457.
R. S. 115, § 11.	1918, 289, § 13.	8 Op. A. G. 355.
G. S. 148, § 10.	G. L. 252, § 12.	Op. A. G. (1930) 6.
P. S. 189, § 10.		

**SECTION 13. Commissioners may open Flood Gates, etc.** If the commissioners find it necessary or expedient to lower or raise the water to obtain a view of the land or for the more convenient or expeditious removal of obstructions, they may open the flood gates of any mill or make other needful passages through or around the dam thereof, or erect a temporary dam on the land of a person not a party to the proceedings, and may maintain such dam or passages as long as necessary for such purposes; but before so doing, they shall give to such person reasonable written notice of their intention. If such person appeals from their decision and gives reasonable written notice thereof to any commissioner, the commissioners shall suspend all proceedings upon his land until such appeal is determined; provided, that the petition therefor is entered in the superior court for the county where the greater part of the land improved lies not later than thirty days after the time of giving such notice.

1702, 11, §§ 1, 4.	P. S. 189, §§ 6-8,	1918, 289, §§ 6, 7,
1745-6, 1-6, § 4.	16, 17.	13, 19.
1795, 62, §§ 2, 6.	1885, 384, § 5.	G. L. 252, § 13.
R. S. 115, §§ 7-9,	R. L. 195, §§ 6-8, 16.	1923, 457, § 1.
16, 17.		6 Op. A. G. 547.
G. S. 148, §§ 6-8,		
15, 16.		

**SECTION 14. Accounts, etc., of Commissioners for Expenses, etc.** The commissioners shall at least once a month at such time as the board may require submit to it the accounts and vouchers for expenses

incurred in meeting the cost of required improvements under section one to fourteen B, inclusive, such accounts and vouchers shall be inspected by the board and if it approves the same it shall forward them to the county treasurer or to the state treasurer, as the case may be, for payment from any funds which may be available for the purpose. Expenses for maintenance or for further improvements incurred under the direction of the prudential committee of the district as provided in section fourteen A shall be paid by the district treasurer on presentation by the prudential committee of accounts and vouchers for such expenses; provided, that accounts and vouchers for expenses incurred in connection with further improvements shall be subject to the approval of the board before payment. The commissioners appointed under section fourteen A to make further improvements shall present their accounts and vouchers to the board for approval in the same manner as the commissioners appointed under section five to make the original improvements.

1702, 11, § 1.	R. L. 195, §§ 6-8.	1926, 393, § 10.
1795, 62, § 2.	1918, 289, § 3.	5 Met. 360.
R. S. 115, §§ 7-9.	G. L. 252, § 14.	4 Gray, 150.
G. S. 148, §§ 6-8.	1923, 457, § 1.	8 Op. A. G. 251.
P. S. 189, §§ 6-8.		

**SECTION 14A. District may vote to undertake Further Improvements, etc.** A reclamation district organized under this chapter may from time to time at a legal meeting called for the purpose, vote to undertake further improvements within the district, to raise money by assessment to meet the expense thereof and to incur debt therefor in the manner provided by section ten. Such vote shall not be passed until after completion of the original improvements. The district may also vote to request the board to appoint commissioners to carry out the proposed further improvements. Such commissioners shall be appointed by certificate of the board as provided in section five. The district may, however, authorize its prudential committee to carry out such further improvements. The commissioners or prudential committee acting under this section shall have and exercise, so far as necessary, the powers of commissioners appointed under section five to make original improvements. The clerk of the district shall notify the board of the vote taken and the commissioners or prudential committee shall submit to the board within a reasonable time the plan or plans for such improvements, which shall not be undertaken until the board approves the same. The district may assess upon its members such sums as may be necessary to pay for improvements so voted and for the maintenance of all improvements made under sections one to fourteen B, inclusive, in the manner provided in section eleven for assessment of the expense of the original improvements. Such assessment shall be subject to the same provisions as the assessment authorized in said section eleven, shall be collected in the same manner and shall be paid to the treasurer of the district.

G. L. 252, § 14A.	1922, 349, § 10.	1926, 393, § 11.
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**SECTION 14B. No Prescriptive Right to Additional Water Supply, etc.** No person obtaining an additional water power or water supply by the doing of



any work contemplated by sections one to fourteen B, inclusive, shall gain a prescriptive right to the use thereof, nor be entitled to any compensation for the taking thereof under said sections by the removal of any dam or flashboards or by the changing of the height or dimensions of any dam. No water power may be developed in a reclamation district organized under this chapter except by vote of the district and approval by the board.

Any drainage district organized under the provisions of said chapter two hundred and fifty-two, as previously existing, shall continue to be governed by such provisions and shall have the rights and powers and be subject to the duties and liabilities therein prescribed unless it shall at a meeting called for the purpose vote to dissolve, and after proper proceedings have been taken for dissolution, vote to reorganize as a reclamation district in the manner provided by this act. Such dissolution shall not relieve said district from any financial obligations

previously incurred. After such reorganization the district shall be subject to the provisions of said chapter two hundred and fifty-two, as hereby amended.

G. L. 252, § 14B.

1923, 457.

S Op. A. G. 355.

**SECTION 14C. Penalty for Obstruction, etc.** Whoever obstructs or injures any ditch, tide gate, dike or other structure constructed or used for any purpose authorized by any provision of sections one to fourteen B, inclusive, shall be punished by a fine of not less than ten dollars. The state reclamation board may also recover, in the name of the commonwealth, for any such obstruction or injury, in an action of contract, the amount of the damages sustained by reason thereof, and the provisions of section five A, relative to the disposition of money therein referred to, shall govern the disposition of money recovered in such action.

G. L. 252, § 14C.

1929, 288, § 5.

## CHAPTER 270.

# CRIMES AGAINST PUBLIC HEALTH.

### SECT.

1. Adulteration of liquor used for drink.
2. Sale of poison.
- 2A. Distribution and sale of certain dangerous caustic or corrosive substances in packages for household use, regulated.
- 2B. Labelling of preparations for sale that are dangerous to public health.
3. Distribution, etc., of harmful or injurious medicines, etc., prohibited.
4. Penalty for having, with intent to sell and the sale, etc., of food or drink containing wood alcohol, etc.
5. Sale of delivery of liquor, etc., to patients in certain hospitals forbidden, etc.
6. Sale of cigarettes, etc., to certain minors prohibited.
7. Posting of notice as to the sale of cigarettes, etc., to minors and unlawful removal thereof.
8. Penalty for sale of candy containing alcohol.
9. Feeding of garbage to animals.
10. Sale of articles containing arsenic.
11. Samples for analysis.
12. Sale of textiles containing arsenic.
13. Refusal of water supply.
14. Expectoration in certain public places prohibited.
15. Arrest without warrant.

**SECTION 1. Adulteration of Liquor used for Drink.** Whoever, for the purpose of sale, adulterates any liquor used or intended for drink with Indian cockle, vitrol, grains of paradise, opium, alum, cochineal, capiscum, copperas, laurel water, logwood, Brazil wood, sugar of lead or any other substance poisonous or injurious to health, and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the state prison for not more than three years; and the articles so adulterated shall be forfeited.

1855, 356.  
G. S. 166, § 4.P. S. 208, § 4.  
R. L. 213, § 1.G. L. 270, § 1.  
289 Mass. 109.

See Page 183A

**SECTION 2. Sale of Poison.** Whoever sells arsenic (arsenious acid), atropia or any of its salts, choral hydrate, chloroform, cotton root or its fluid extract, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot or its fluid extract, Fowler's solution, oil of pennyroyal, oil of savin, oil of tansy, Paris green, Parson's vermin exterminator, phosphorus, prussic acid, "rough on rats", strychnia or

any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum veride, compounds of fluorine, or carbolic acid, without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper upon which shall be printed in large black letters the name and place of business of the vendor and the words POISON and ANTIDOTE, and the label shall also contain the name of an antidote, if any, for the poison sold. He shall also keep a record of the name and quantity of the article sold and of the name and residence of the person or persons to whom it was delivered, which shall be made before the article is delivered, and shall be open to inspection by the officers of the state police and by the police authorities and officers of towns. Whoever neglects to affix such label to such bottle, box or wrapper before delivery thereof to the purchaser, or whoever neglects to keep or refuses to show to said officers such record, or whoever purchases any of said poisons and gives a false or fictitious name to the vendor shall be punished by a fine of not more than fifty dollars. This section shall not apply to sales made by wholesale dealers or manufacturing chemists to retail dealers; or to a general merchant who sells Paris green, London purple or other arsenical poisons in unbroken packages containing not less than one quarter of a pound, for the sole purpose of destroying potato bugs or other insects upon plants, vines or trees except that he shall record each sale and label each package sold as above provided; or to sales of compounds containing not more than fifty per cent of sodium fluoride intended solely for the destruction of roaches, ants or other household insects, when sold in sealed metal packages containing not less than one fourth of a



pound, plainly labelled in such a manner as to show the purposes for which the preparation was intended.

1857, 280.  
G. S. 166, § 7.  
P. S. 208, § 6.  
1887, 38.  
1888, 209.

1896, 397, § 20.  
1898, 192.  
R. L. 213, § 2.  
1912, 263.  
1913, 585.

1916, 78.  
G. L. 270, § 2.  
289 Mass. 109.  
Op. A. G. (1940) 58.

**SECTION 2A. Distribution and Sale of Certain Dangerous Caustic or Corrosive Substances in Packages for Household Use, regulated.** No person shall sell, exchange, deliver or have in his possession with intent to sell, exchange or deliver any dangerous caustic or corrosive substance designed for household use unless there is affixed to the bottle, box, wrapper or other container containing such substance a conspicuous and easily legible label conforming to the provisions of federal law regulating the distribution and sale thereof in interstate and foreign commerce.

In this section, unless the context or subject matter otherwise requires, the term "dangerous caustic or corrosive substance" means: hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid in a concentration of ten per centum or more; sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid in a concentration of ten per centum or more; nitric acid or any preparation containing free or chemically unneutralized nitric acid in a concentration of five per centum or more; carbolic acid, otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five per centum or more; oxalic acid and any preparation containing free or chemically unneutralized oxalic acid in a concentration of ten per centum or more; any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; acetic acid or any preparation containing free or chemically unneutralized acetic acid in a concentration of twenty per centum or more; hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide, including caustic potash and Vienna paste, in a concentration of ten per centum or more; sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide, including caustic soda and lye, in a concentration of ten per centum or more; silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate in a concentration of five per centum or more; and ammonia water and any preparation yielding free or chemically uncombined ammonia including ammonium hydroxide in a concentration of five per centum or more.

Any person violating any provision of this section shall be punished by a fine of not more than fifty dollars; but no person shall be prosecuted hereunder if the substance is marked as it was when purchased by him and he can establish a guaranty signed by the wholesaler, jobber or manufacturer from whom he purchased such substance, to the effect that the same is correctly marked as required by this section,

designating it. Such guaranty, to afford protection, shall contain the names and addresses of the parties making the sale of such substances to such person.

Products for household cleaning and washing purposes subject to this section, if labelled in accordance therewith, may be sold, offered for sale, held for sale and distributed in this commonwealth by any dealer, wholesale or retail.

1927, 224, § 1.

G. L. 270, § 2A.

**SECTION 2B. Labelling of Preparations for Sale that are Dangerous to Public Health.** No person shall manufacture, distribute, sell, exchange, deliver, or have in his possession with intent to distribute, sell, exchange or deliver, any preparation containing dichloro-diphenyl-trichloroethane, hereinafter referred to as DDT, unless each bottle, can, package or other container designed for consumer use containing such preparation is plainly labelled as herein provided. The label shall include on its most prominent face a correct statement of the percentage of DDT contained in such preparation, printed in the English language in conspicuous and easily legible type, and the percentage figures shall accompany, in type of equal size, the initials DDT wherever the same appear in greatest prominence on such label; provided, that, if the DDT content of such preparation is greater than one per cent, the statement "per cent DDT", with the correct percentage appearing therein, shall be printed on the most prominent face of the label in type not less than three sixteenths of an inch in height. Such label shall further include the word "Caution" in conspicuous type, followed by statements and warnings in the English language as to the toxicity of the preparation if inhaled or if brought into contact with the skin of man or animals, together with directions for removal of the same from the skin in case of accidental contact. The label shall also include instructions in the English language relative to the prevention of contamination of foodstuffs by such preparation.

The department of public health is hereby authorized to adopt regulations, consistent with regulations adopted under any federal law pertaining to the distribution and sale of such preparations in interstate commerce, and to amend or annul the same from time to time, prescribing additional labelling requirements for preparations containing DDT. Said department is hereby further authorized to prescribe regulations for the labelling of other preparations for the destruction of pests or vermin deemed by it to be poisonous, toxic or dangerous to the public health and not specifically mentioned in this section or in section two, and such regulations shall be consistent with regulations adopted under any federal law pertaining to the distribution and sale of such preparations in interstate commerce.

Whoever manufactures, distributes, sells, exchanges, delivers, or has in his possession with intent to distribute, sell, exchange or deliver, any preparation containing DDT not labelled as provided herein, or any other preparation for the destruction of pests or vermin deemed by said department to be poisonous, toxic or dangerous to the public health as provided herein not labelled as required by the regulations of said department, shall be punished by a fine of not more than fifty dollars.



This act shall take effect on January first, nineteen hundred and forty-seven.

1946, 517, § 1.

**SECTION 3. Distribution, etc., of Harmful or Injurious Medicines, etc., prohibited.** Whoever distributes, delivers or gives away in any public way or from house to house or place to place, any bottle, box, envelope or package containing any liquid, medicine, pill, powder, tablet or other article composed of any drug, poison or other ingredient or substance which may be in any way injurious or harmful to any person who may taste, eat, drink or otherwise use the same, shall be punished by a fine of not less than fifty nor more than one hundred dollars.

1907, 180.

G. L. 270, § 3.

**SECTION 4. Penalty for having, with Intent to sell and the Sale, etc., of Food or Drink containing Wood Alcohol, etc.** Whoever, himself, or by his servant or agent, or as the servant or agent of another, sells or exchanges, or has in his possession with intent to sell or exchange, or knowingly delivers or has in his possession with intent to deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, either crude or refined, under or by whatever name or trade mark the same may be called or known, shall be punished by a fine of not more than five thousand dollars or by imprisonment in a jail or house of correction for not more than two and one half years or in the state prison for not more than five years, or by both such fine and imprisonment.

1905, 220, § 2.

G. L. 270, § 4.

1929, 299, § 4.

1910, 541, §§ 2, 3.

**SECTION 5. Sale or Delivery of Liquor, etc., to Patients in Certain Hospitals forbidden, etc.** Whoever, except under the direction of a physician, gives, sells or delivers alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, or a narcotic drug to a patient in any hospital who is suffering from inebriety or from the effect of inebriety, or from excessive use of narcotic drugs or from the effect of such use, and whoever has in his possession within the precincts of any hospital any such beverage or drug with intent to convey or deliver it to any such patient, except under direction as aforesaid, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than two months.

1911, 30.

G. L. 270, § 5.

1934, 328, § 27.

**SECTION 6. Sale of Cigarettes, etc., to Certain Minors prohibited.** Whoever sells a cigarette to a person under eighteen, or whoever sells snuff or tobacco in any of its forms to any person under sixteen, or, not being his parent or guardian, gives a cigarette to a person under eighteen, or gives snuff or tobacco in any of its forms to any person under sixteen shall be punished by a fine of not more than fifty dollars. A copy of this section printed in letters not less in size than eighteen point capitals, boldface, shall be prepared by the department of public health and delivered without charge to towns applying therefor.

1886, 72.

1901, 373.

R. L. 213, 3.

1909, 346, §§ 1, 3.

G. L. 270, § 6.

**SECTION 7. Posting of Notice as to the Sale of Cigarettes, etc., to Minors and Unlawful Removal thereof.** A copy of the preceding section printed as therein specified shall be posted conspicuously by the owner or person in charge thereof in the shop or other place used to sell cigarettes at retail, and whoever violates this provision shall be punished by a fine of not more than fifty dollars. Any person unlawfully removing a copy so posted while said premises are used for the sale of cigarettes shall be punished by a fine of ten dollars.

1909, 346, §§ 1, 2.

G. L. 270, § 7.

**SECTION 8. Penalty for Sale of Candy containing Alcohol.** Whoever sells to a person any candy enclosing or containing liquid or syrup having more than one per cent of alcohol shall be punished by a fine of not more than one hundred dollars.

1891, 333.

R. L. 213, § 4.

1913, 647.

G. L. 270, § 8.

**SECTION 9. Feeding of Garbage to Animals.** Whoever knowingly feeds or has in his possession with intent to feed to a milch cow any garbage, refuse or offal collected by a town, or by any person having authority therefrom, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months; and whoever knowingly feeds or has in his possession with intent to feed to any food animal, except swine, any garbage, refuse or offal collected by a city of more than thirty thousand inhabitants shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month.

1889, 326.

1895, 385.

R. L. 213, § 5.

G. L. 270, § 9.

**SECTION 10. Sale of Articles containing Arsenic.** Whoever, himself, or by his agent or servant, or as the agent or servant of another, manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, any toys or confectionery, containing or coated wholly or in part with arsenic, shall be punished by a fine of not less than fifty nor more than one hundred dollars.

1891, 374, § 1.

R. L. 213, § 6.

G. L. 270, § 10.

**SECTION 11. Samples for Analysis.** Whoever offers or exposes for sale or exchange any paper, fabric or other article shall furnish a sample thereof sufficient to ascertain by analysis the existence of arsenic therein, if such sample can be obtained without damage to the remaining portion, to any inspector, chemist or other agent or officer of the department of public health who applies therefor and tenders the value thereof; and for a violation of this section shall be punished as provided in the preceding section.

1891, 374, § 3.

R. L. 213, § 7.

1914, 792, § 1.

1919, 350, § 96.

G. L. 270, § 11.

**SECTION 12. Sale of Textiles containing Arsenic.** Whoever, himself, or by his agent or servant manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, any woven fabric or paper containing arsenic in any form, or any article of dress or household use composed wholly or in part of such woven fabric or



paper, shall be punished by a fine of not less than fifty nor more than two hundred dollars; but this section shall not apply to articles intended for the destruction of insects, having the word "POISON" plainly printed in uncondensed gothic letters not less than one inch long on both sides of each sheet and square foot of the fabric, or to dress goods or articles of dress containing not more than one one-hundredth grain, or to other materials or articles containing not more than one tenth grain of arsenic for each square yard of the material. The department of public health shall make all necessary investigations as to the existence of arsenic in the aforesaid articles and materials, employ inspectors and chemists, and adopt such measures as are necessary to enforce this section.

1900, 325.  
1901, 188.

R. L. 213, § 8.  
1914, 792, § 1.

1919, 350, § 96.  
G. L. 270, § 12.

**SECTION 13. Refusal of Water Supply.** A corporation engaged in selling or distributing water, which refuses or neglects to furnish or supply water to or for any building or premises for the reason that a water bill remains unpaid by a previous owner or occupant of said building or premises shall, unless the person applying for water is in arrears to such corporation for water previously furnished to or for any building or premises, be punished by a fine of not less than ten nor more than twenty dollars.

1898, 168.  
R. L. 218, § 10.

G. L. 270, § 18.  
171 Mass. 329.

297 Mass. 308.

**SECTION 14. Expectoration in Certain Public Places prohibited.** Whoever expectorates or spits upon any public sidewalk, or upon any place used exclusively or principally by pedestrians, or, except in receptacles provided for the purpose, in or upon any part of any city or town hall, any court house or

court room, any public library or museum, any church or theatre, any lecture or music hall, any mill or factory, any hall of any tenement building occupied by five or more families, any school building, any ferry boat or steam boat, any railroad car or elevated railroad car, except a smoking car, any street railway car, any railroad or railway station or waiting room, or on any track, platform or sidewalk connected therewith, and included within the limits thereof, shall be punished by a fine of not more than twenty dollars.

1906, 165.  
1907, 410.

1908, 150.

G. L. 270, § 14.

**SECTION 15. Arrest without Warrant.** Any person detected in the act of violating the preceding section may, if his name is unknown to the officer, be arrested without a warrant by any officer authorized to serve criminal process in the place where the offence is committed and kept in custody until he can be taken before a court having jurisdiction of such offence.

1907, 410, § 2.

G. L. 270, § 15.

*SECTION 16 (See page 183A)*  
REFERENCES.

Regulation of sale of unwholesome food and penalty, Chap. 94, § 150.

Penalty for manufacture, sale, etc., of confectionery detrimental to public health, Chap. 94, § 186.

Regulation of sale and distribution of narcotic drugs, Chap. 94, §§ 198-206, 211 and 213.

Restriction of use of common drinking cups, Chap. 111 § 8.

Regulations as to milk containers, Chap. 94, §§ 46 and 47.

## CHAPTER 272.

### CRIMES AGAINST CHASTITY, MORALITY, DECENCY AND GOOD ORDER.

#### SECT.

20. Penalty for advertising, etc., notice, of means to procure abortion.

21. Other offences against decency.

29. Discrimination by advertisement, etc., of information concerning certain diseases prohibited. Violation of this section cause for revocation, etc., of physician's registration, etc.

**SECTION 20. Penalty for Advertising, etc., Notice, etc. of Means to Procure Abortion.** Whoever knowingly advertises, prints, publishes, distributes or circulates, or knowingly causes to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement or reference, containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop or office where, any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or any advice, direction, information or knowledge, may be obtained for the purpose of causing or procuring the miscarriage

of a woman pregnant with child or of preventing, or which is represented as intended to prevent, pregnancy, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than two and one half years or by a fine of not more than one thousand dollars.

1847, 88.

G. S. 165, § 10.

P. S. 207, § 10.

R. L. 212, § 16.

1905, 316.

1918, 257, § 464.

1919, 5.

1920, 2.

193 Mass. 464.

227 Mass. 57.

**SECTION 21. Other Offences Against Decency.** Whoever sells, lends, gives away, exhibits, or offers to sell, lend or give away any instrument or other article intended to be used for self-abuse, or any drug, medicine, instrument or article whatever for the prevention of conception or for causing unlawful abortion, or advertises the same, or writes, prints or causes to be written or printed a card, circular, book, pamphlet, advertisement or notice of any kind stating when, where, how, of whom or by what means such article can be purchased or obtained, or manu-



## CRIMES AGAINST PUBLIC HEALTH

Chap. 270)

See page 179, in place of Section 2)

**SECTION 2. SALE OF POISON.** Whoever sells arsenic (arsenious acid), atropia or any of its salts, chloral hydrate, chloroform, cotton root or its fluid extract, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot or its fluid extract, Fowler's solution, oil of penny-royal, oil of savin, oil of tansy, Paris green, Parson's vermin exterminator, phosphorus, prussic acid, "rough on rats", strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, compounds of flourine, or carbolic acid, in such concentration as shall be determined by the board of registration in pharmacy, and without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper upon which shall be printed in large black letters the name and place of business of the vendor and the words "POISON" and "ANTIDOTE", and the label shall also contain the name of an antidote, if any, for the poison sold. He shall also keep a record of the name and quantity of the article sold and of the name and residence of the person or persons to whom it was delivered, which shall be made before the article is delivered, and shall be open to inspection by the officers of the state police and by the police authorities and officers of towns. Whoever neglects to affix such label to such bottle, box or wrapper before delivery thereof to the purchaser, or whoever neglects to keep or refuses to show to said officers such record, or whoever purchases any of said poisons and gives a false or fictitious name to the vendor shall be punished by a fine of not more than fifty dollars. This section shall not apply to sales made by wholesale dealers of manufacturing chemists to retail dealers; or to a general merchant who sells Paris green, London purple or other arsenical poisons in unbroken packages containing not less than one quarter of a pound, for the sole purpose of destroying potato bugs or other insects upon plants, vines or trees, except that he

shall record each sale and label each package sold as above provided; or to sales of compounds containing not more than fifty per cent of sodium flouride intended solely for the destruction of roaches, ants or other household insects, when sold in sealed metal packages containing not less than one fourth of a pound, plainly labelled in such a manner as to show the purposes for which the preparation was intended.

1857, 280	1912, 263
G.S. 166, §7	1913, 585
P.S. 208, §6	1916, 78
1887, 38	G.L. 270, §2
1888, 209	239 Mass. 109
1896, 397, §20	Op. A.G. (1940) 58
1898, 192	1949, 658
R.L. 213, §2	

(See page 182, after Section 15)

**SECTION 16. THE DISPOSAL OF GARBAGE AND REFUSE ON HIGHWAYS AND PRIVATE PROPERTY WITHOUT PERMISSION: PROHIBITED.** Whoever, in disposing of garbage, refuse, bottles, cans or rubbish on a public highway or within twenty yards thereof, or on private property, without permission, commits a nuisance thereby, shall be punished by a fine of not more than fifty dollars. If a motor vehicle is used in committing such nuisance, a conviction under this section shall forthwith be reported by the court to the registrar of motor vehicles, and the registrar may suspend the license of the operator of such vehicle for not more than thirty days, and if it appears from the records of the registrar of motor vehicles that the person so convicted is the owner of the motor vehicle so used, the registrar may suspend the certificate of registration of said vehicle for thirty days.

1949, 416§10





factures or makes any such article, shall be punished by imprisonment in the state prison for not more than five years or in jail or the house of correction for not more than two and one half years or by a fine of not less than one hundred nor more than one thousand dollars.

1879, 159, § 1.  
P. S. 207, § 17.  
R. L. 212, § 26.

1918, 257, § 464.  
1919, 5.

1920, 2.  
227 Mass. 57.

**SECTION 29. Dissemination by Advertisement, etc., of Information concerning Certain Diseases prohibited. Violation of this Section Cause for Revocation, etc., of Physician's Registration, etc.** Whoever publishes, delivers, distributes, or causes to be published, delivered or distributed, an advertisement, statement or notice, other than a label which is attached to a bottle or package of medicine, or which is contained in a sealed package of medicine, describ-

ing the causes, symptoms, details or effects of a venereal disease, or of a disease, infirmity or condition of the sexual organs, for the purpose of calling attention to or advertising a person from whom, or an office or place at which, information, treatment or advice may be obtained concerning such diseases or conditions, shall be punished by imprisonment for not more than six months or by a fine of not less than fifty nor more than five hundred dollars, or both. This section shall not apply to the printing or delivering in sealed packages outside this commonwealth of books, pamphlets or circulars containing such advertisements, nor to newspapers printed outside this commonwealth, nor to the printing, publishing or distribution of any matter pertaining to venereal diseases by state or municipal health authorities.

1908, 386.  
1918, 237.

G. L. 272, § 29.  
256 Mass. 542.

See chap. 112, § 2.



## MISCELLANEOUS LAWS

### SPECIAL LAWS PROTECTING THE PUBLIC HEALTH IN RELATION TO CERTAIN STREAMS, ETC.

ACTS OF 1902, 541, AS AMENDED.

#### TO PROHIBIT THE POLLUTION OF THE NEPONSET RIVER AND ITS TRIBUTARIES.

SECTION 1. The state department of health is hereby authorized and directed to prohibit the entrance or discharge of sewage into any part of the Neponset river or its tributaries, and to prevent the entrance or discharge therein of any other substance which may be injurious to the public health or may tend to create a public nuisance or to obstruct the flow of water, including all waste or refuse from any factory or other establishment where persons are employed, unless the owner thereof shall use the best practicable and reasonably available means to render such waste or refuse harmless.

1902, 541.

1906, 360.

1916, 180.

SECTION 2. The board shall consult and advise with the owner of any factory or other establishment at his request or of its own motion as to the best practical and reasonably available means of rendering the waste or refuse therefrom harmless.

1902, 541.

1906, 360.

SECTION 3. The supreme judicial court or any justice thereof and the superior court or any justice thereof shall have jurisdiction in equity to enforce the provisions of this act and any order made by the state board of health in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney-general upon the request of the state board of health.

1902, 541.

1906, 360.

SECTION 4. Whoever permits the entrance or discharge into any part of the Neponset river or its tributaries of sewage or of any other substance injurious to public health or tending to create a public nuisance shall be punished by a fine not exceeding five hundred dollars for each offence.

1906, 360.

Acts of 1907, 235.

#### THE PROTECTION OF THE PUBLIC HEALTH IN THE VICINITY OF HORN POND BROOK IN WOBURN AND WINCHESTER.

SECTION 1. The state board of health is hereby authorized and directed to prohibit the entrance or discharge of sewage into any part of Horn Pond brook, otherwise called Russell brook, or its tributaries, and to prevent the entrance or discharge therein of every other substance which may be injurious to public health or may tend to create a public nuisance.

SECTION 2. The board shall consult and advise with the owner of any factory or other establishment, at his request or of its own motion, as to the best practicable and reasonably available means of rendering the waste or refuse therefrom harmless.

SECTION 3. The supreme judicial court or any justice thereof and the superior court or any justice thereof shall have jurisdiction in equity to enforce the provisions of this act and any order made by the state board of health in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney-general upon the request of the state board of health.

SECTION 4. Whoever permits the entrance or discharge into any part of Horn Pond brook, otherwise called Russell brook, or its tributaries, of sewage or of any other substance injurious to public health or tending to create a public nuisance shall be punished by a fine not exceeding five hundred dollars for each offence.

ACTS OF 1911, 291.

#### THE PROTECTION OF THE PUBLIC HEALTH IN THE VICINITY OF THE TOWNS OF WINCHESTER AND STONEHAM, AND THE CITY OF WOBURN.

SECTION 1. The state board of health is hereby authorized and directed to prohibit the entrance or discharge of sewage into any part of Aberjona river, or its tributaries, and to prevent the entrance or discharge therein of any other substance which might be injurious to public health or might tend to create a public nuisance.

SECTION 2. The Board shall consult and advise with the owner of any factory or other establishment situated on or near the said river or any of its tributaries, at his request or of its own motion, as to the best practicable and reasonably available means of rendering the waste or refuse therefrom harmless.

SECTION 3. The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall have jurisdiction in equity to enforce the provisions of this act, and any order made by the state board of health in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney-general upon the request of the state board of health.

SECTION 4. Whoever permits the entrance or discharge into any part of Aberjona river, or its tributaries, of sewage or of any other substance injurious to public health or tending to create a public nuisance shall be punished by a fine not exceeding five hundred dollars for each offence.



ACTS OF 1914, 655.

### THE PROTECTION OF THE PUBLIC HEALTH IN THE VALLEY OF THE ASSABET RIVER.

SECTION 1. The state board of health is hereby authorized and directed to prohibit the entrance or discharge of sewage into any part of the Assabet river or its tributaries, and to prohibit the entrance or discharge therein of every other substance which may be injurious to public health or may tend to create a public nuisance.

SECTION 2. The board shall consult and advise with the owner of any factory or other establishment, or any municipality discharging any substance into the Assabet river, at his or its request, or of its own motion, as to the best practicable and reasonably available means of rendering the waste or refuse therefrom harmless, and any order or finding by the board shall be prima facie evidence of compliance or non-compliance with the provisions of section one of this act.

SECTION 3. The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall have jurisdiction in equity to enforce the provisions of this act and of any order made by the state board of health in conformity therewith, and to enjoin the entrance or discharge into any part of the Assabet river or its tributaries of sewage or of any other substance which is, or which said board shall have determined may be, injurious to public health or tending to create a public nuisance. Proceedings to enforce any such order or to obtain such an injunction shall be instituted and prosecuted by the attorney-general at the relation of the state board of health.

SECTION 4: Whoever, contrary to any order of the state board of health, permits the entrance or discharge into any part of the Assabet river or its tributaries of sewage or of any other substance injurious to public health or tending to create a public nuisance shall be punished by a fine not exceeding five hundred dollars for each offence.

GENERAL ACTS OF 1918, 93.

### THE PROTECTION OF THE PUBLIC HEALTH IN THE VICINITY OF ALEWIFE BROOK IN THE TOWNS OF ARLINGTON AND BELMONT AND IN THE CITIES OF CAMBRIDGE AND SOMERVILLE.

SECTION 1. The state department of health is hereby authorized and directed to prohibit the entrance or discharge of sewage into any part of Alewife brook, or its tributaries, and to prevent the entrance or discharge therein of any other substance which might be injurious to public health or might tend to create a public nuisance.

SECTION 2. The department shall consult with the owner of any factory or other establishment situated on or near the said river or any of its tributaries, at his request or of its own motion, as to the best practicable and reasonably available means of rendering the waste or refuse therefrom harmless.

SECTION 3. The supreme judicial and superior courts shall have jurisdiction in equity to enforce the provisions of this act, and any order made by the state department of health in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney-general upon the request of the said department.

SECTION 4. Whoever permits the entrance or discharge into Alewife brook, or its tributaries, of sewage or of any other substance injurious to the public health or tending to create a public nuisance after the same has been prohibited by the state department of health as provided in section one shall be punished by a fine not exceeding five hundred dollars for each offence.

SECTION 5. This act shall not affect the rights of the cities of Cambridge and Somerville under chapter two hundred and thirty-eight of the acts of the year eighteen hundred and ninety-six or any other rights of any city or town in regard to drainage into Alewife brook.

GENERAL ACTS OF 1918, 243; AMENDED, 1931, 34.

### TO PROHIBIT AND PROVIDE FOR THE ABATEMENT OF CERTAIN NUISANCES ON THE SEASHORE IN CERTAIN COUNTIES.

SECTION 1. It shall be unlawful for any person to deposit, or wilfully or negligently cause or permit to be deposited or to dispose of in such manner as to cause the same to be deposited by the action of the tide or otherwise upon the seashore within the limits of the counties of Dukes, Barnstable, Plymouth or Nantucket, any mammals, alive or dead, constituting or likely to constitute a nuisance or a detriment to the health of the community. Any person violating any provision of this section shall be punished by a fine of not less than twenty nor more than five hundred dollars.

SECTION 2. The owner of any premises upon which any such mammals are deposited shall, within forty-eight hours after being notified so to do by the board of health of the city or town concerned, remove the same. In case the nuisance is not abated by the owner of the premises, or by the person causing the nuisance, the city or town, acting by its board of health, shall abate the same, and may recover the expense therefor from the person causing such nuisance or from the owner of the premises aforesaid: *provided, however*, that no owner shall be liable as such for a sum exceeding twenty-five dollars in any one year. All expenses of abatement not recoverable as aforesaid shall be paid by the county in which the same are incurred.

ACTS OF 1929, 181, AMENDING GENERAL LAWS, CHAPTER 91.

### PROHIBITING THE DISCHARGE OF OILS AND THEIR PRODUCTS INTO OR ON CERTAIN WATERS AND FLATS.

SECTION 59. Whoever pumps, discharges or deposits, or causes to be pumped, discharged or deposited, into or on the waters of any lake or river or



into or on tidal waters and flats, any crude petroleum or any of its products or any other oils or any bilge water or water from any receptacle containing any of the said substances, in such manner and to such extent as to be a pollution or contamination of said waters or flats or a nuisance or be injurious to the public health, shall be punished by a fine of not more than five hundred dollars; but this section shall not be construed to prohibit the use of oil for the extermination of mosquitoes or other insects. The provisions of this section shall be enforced by the department of public safety and by all other officers authorized to make arrests.

ACTS OF 1909, 505.

#### THE SANITARY CONDITION OF THE MERRIMACK RIVER AND ITS TRIBUTARIES.

SECTION 1. The state board of health shall at such times as it may deem proper examine the bed, banks, and waters of the Merrimack river and of streams tributary or adjacent thereto in any city or town bordering upon said river or streams. Whenever the board shall determine that the condition of said river or streams or of the banks thereof is injurious or dangerous to public health, or likely to become injurious or dangerous to public health, by reason of the entrance of sewage or of refuse from factories or from other causes, said board shall prepare a plan or plans for removing the cause of such injury or danger, and shall report the same to the general court.

ACTS OF 1929, 202.

#### PROVIDING FOR AN ANNUAL INVESTIGATION BY THE DEPARTMENT OF PUBLIC HEALTH OF THE MERRIMACK RIVER AND THE POLLUTION THEREOF.

The department of public health is hereby authorized and directed to investigate annually until otherwise ordered by the general court, the condition of the Merrimack river and the pollution thereof within the limits of the commonwealth and to determine whether the condition of the stream has changed materially since the last previous investigation thereof at any point within the aforesaid limits. Said department may examine in connection with such investigations all sewers discharging into said river and its tributaries within any of the cities and towns bordering thereon within the commonwealth and may enter the premises of any manufacturing establishment for the purpose of making an examination of the amount and character of any sewage or waste discharged therefrom into the river or any tributary thereof within any such city or town. The department shall report annually to the general court the results of its investigations and its recommendations, if any, by including the same as a part of its annual report.

ACTS OF 1947, 421.

#### AN ACT AUTHORIZING THE RATIFICATION OF A PROPOSED COMPACT BETWEEN THE COMMONWEALTH AND CERTAIN STATES SPECIFIED THEREIN, PROVIDING FOR ABATEMENT OF EXISTING POLLUTION AND CONTROL OF FUTURE POLLUTION OF INTERSTATE WATERS.

*Be it enacted, etc., as follows:*

SECTION 1. The state planning board, on behalf of the commonwealth, acting in accordance with the provisions of chapter two hundred and seventy-eight of the acts of nineteen hundred and thirty-six, and subject to the approval of the attorney-general, is hereby authorized to enter into a compact, substantially in the following form, with any one or more of the states of Maine, New Hampshire, Vermont, Rhode Island and Connecticut, and the general court hereby approves and ratifies in advance such compact so entered into, such approval and ratification to be effective upon the filing of a properly executed copy of such compact in the office of the state secretary:—

#### NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMPACT.

*Whereas*, The growth of population and the development of the territory of the New England states has resulted in serious pollution of certain interstate streams, ponds and lakes, and of tidal waters ebbing and flowing past the boundaries of two or more states; and

*Whereas*, Such pollution constitutes a menace to the health, welfare and economic prosperity of the people living in such area; and

*Whereas*, The abatement of existing pollution and the control of future pollution in the interstate waters of New England area are of prime importance to the people and can best be accomplished through the co-operation of the New England states in the establishment of an interstate agency to work with the states in the field of pollution abatement;

Now, therefore, the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont do agree and are bound as follows:

#### ARTICLE I.

It is agreed between the signatory states that the provisions of this compact shall apply to streams, ponds and lakes which are contiguous to two or more signatory states or which flow through two or more signatory states or which have a tributary contiguous to two or more signatory states or flowing through two or more signatory states, and also shall apply to tidal waters ebbing and flowing past the boundaries of two states.

#### ARTICLE II.

There is hereby created the New England Interstate Water Pollution Control Commission (hereinafter referred to as the commission) which shall be a body corporate and politic, having the powers,



duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others.

### ARTICLE III.

The commission shall consist of five commissioners from each signatory state, each of whom shall be a resident voter of the state from which he is appointed. The commissioners shall be chosen in the manner and for the terms provided by law of the state from which they shall be appointed. For each state there shall be on the commission a member representing the state health department, a member representing the state water pollution control board (if such exists), and, except where a state in its enabling legislation decides that the best interests of the state will be otherwise served, a member representing municipal interests, a member representing industrial interests, and a member representing an agency acting for fisheries or conservation.

### ARTICLE IV.

The commission shall annually elect from its members a chairman and vice chairman and shall appoint and at its pleasure remove or discharge such officers. It may appoint and employ a secretary who shall be a professional engineer versed in water pollution and may employ such stenographic or clerical employees as shall be necessary, and at its pleasure remove or discharge such employees. It shall adopt a seal and suitable by-laws and shall promulgate rules and regulations for its management and control. It may maintain an office for the transaction of its business and may meet at any time or place within the signatory states. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the commission imposing any obligation on any signatory state or on any municipal agency or subdivision thereof or on any person, firm or corporation therein shall be binding unless a majority of the members from such signatory state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of water pollution control affecting only certain of the signatory states, the commission may vote to authorize special meetings of the commissioners of the states especially concerned. The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each signatory state setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to carry out the intent and purpose of this compact. The commission shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the signatory states adequate to meet the same; nor shall the commission pledge the credit of any of the signatory states. Each signa-

tory state reserves the right to provide thereafter by law for the examination and audit of the accounts of the commission. The commission shall appoint a treasurer who may be a member of the commission, and disbursements by the commission shall be valid only when authorized by the commission and when vouchers therefor have been signed by the secretary and countersigned by the treasurer. The secretary shall be custodian of the records of the commission with authority to attest to and certify such records or copies thereof.

### ARTICLE V.

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, shellfish culture, navigation and disposal of wastes.

The commission shall establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in entirety or by portions according to present and proposed highest use and for this purpose technical experts employed by state departments of health and state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory state agrees to submit its classification of its interstate waters to the commission for approval. It is agreed that after such approval all signatory states through their appropriate state health departments and water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity.

### ARTICLE VI.

Each of the signatory states pledges to provide for the abatement of existing pollution and for the control of future pollution of interstate inland and tidal waters as described in Article I, and to put and maintain the waters thereof in a satisfactory condition consistent with the highest classified use of each body of water.



## ARTICLE VII.

Nothing in this compact shall be construed to repeal or prevent the enactment of any legislation or prevent the enforcement of any requirement by any signatory state imposing any additional condition or restriction to further lessen the pollution of waters within its jurisdiction. Nothing herein contained shall affect or abate any action now pending brought by any governmental board or body created by or existing under any of the signatory states.

## ARTICLE VIII.

The signatory states agree to appropriate for the salaries, office, administrative, travel and other expenses such sum or sums as shall be recommended by the commission. The commonwealth of Massachusetts obligates itself only to the extent of sixty-five hundred dollars in any one year, the state of Connecticut only to the extent of three thousand dollars in any one year, the state of Rhode Island only to the extent of fifteen hundred dollars in any one year, and the states of New Hampshire, Maine, and Vermont each only to the extent of one thousand dollars in any one year.

## ARTICLE IX.

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

## ARTICLE X.

The commission is authorized to discuss with appropriate state agencies in New York state questions of pollution of waters which flow into the New England area from New York state or vice versa and to further the establishment of agreements on pollution abatement to promote the interests of the New York and New England areas.

Whenever the commission by majority vote of the members of each signatory state shall have given its approval and the state of New York shall have taken the necessary action to do so, the State of New York shall be a party to this compact for the purpose of controlling and abating the pollution of waterways common to New York and the New England states signatory to this compact but excluding the waters under the jurisdiction of the interstate sanitation commission (New York, New Jersey and Connecticut).

## ARTICLE XI.

This compact shall become effective immediately upon the adoption of the compact by any two contiguous states of New England but only in so far as applies to those states and upon approval by federal law. Thereafter upon ratification by other contiguous states, it shall also become effective as to those states.

SECTION 2. Whenever the state planning board shall have entered into the compact substantially in

the form set forth in section one with the duly authorized agency of any of the states specified in said section, it shall file a certified copy of such compact in the office of the state secretary and shall notify the governor of its action. Such compact shall thereupon become effective and operative as between the commonwealth and such other state or states, subject to the consent of the Congress of the United States, which the governor shall take such steps as may be necessary to obtain. The governor is hereby authorized and requested, upon receiving notice of the filing of the required copy thereof in the office of the state secretary, to notify forthwith the governors of the specified states and the President of the United States, that the commonwealth on its part has ratified and executed said compact. The original notice of ratification received from the governor or other duly authorized official of any state joining in said compact shall be filed with the official copy of said compact in the office of the state secretary, and such notice, if any, as may be received from the President or the Congress of the United States, signifying the consent of the Congress to said compact, shall be filed in the same manner.

SECTION 3. After the aforesaid compact shall become effective and operative as provided in section two, the governor, with the advice and consent of the council, shall designate or appoint four commissioners who, with the commissioner of public health for the time being, shall represent the commonwealth as members of the New England Interstate Water Pollution Control Commission, hereinafter called the commission. Any of the four commissioners so designated or appointed may be state officials, and all shall be named with due regard to interests concerned with interstate water pollution problems. The terms of appointees who are not salaried state officials shall originally be so arranged as to expire in successive years, the longest term to be four years. Thereafter appointments of such commissioners shall be for terms of four years. Vacancies shall be filled for the remainder of unexpired terms in the same manner as original appointments are made. The designations of state officials other than the commissioner of public health, may be changed whenever in the opinion of the governor such change is desirable. Sections eight to twelve, inclusive, of chapter thirty of the General Laws shall apply at all times to commissioners who are not serving as salaried state officials during their terms hereunder. Any commissioner who is a state official may delegate from time to time a deputy or other subordinate in his department to attend and participate in any meeting of or hearing by or other proceeding of the commission, with authority to vote as the representative of or substitute for said commissioner. The terms of commissioners first appointed, who are not then holding salaried state offices, shall be considered to have begun on the date when the compact aforesaid shall become effective and operative in accordance with section two.

SECTION 4. Each commissioner designated or appointed by the governor who, while such commis-



sioner, holds no salaried state office, shall be paid by the commonwealth as compensation the sum of thirty dollars for each day's service performed in connection with his duties as such commissioner, but not to exceed six hundred dollars in any fiscal year. Such compensation shall be paid by the state treasurer not oftener than once in two weeks, upon bills approved by the chairman or vice chairman and the secretary of the commission. All commissioners shall be entitled to their actual expenses incurred in the performance of their duties as such.

SECTION 5. The commissioners on the part of the commonwealth shall obtain accurate accounts of all the commission's receipts and disbursements and shall report to the governor and the budget commissioner annually on or before the fifteenth day of September, setting forth in such detail as the budget commissioner may require the transactions of the commission for the fiscal year ending on the preceding June thirtieth. They shall include in such report recommendations for any legislative action that the commission deems advisable, including such amendments or additions to the laws of the commonwealth as may be necessary or desirable to carry out the intent and purposes of the New England Interstate Water Pollution Control Compact among the states joining therein.

Acts of 1929, 812.

**TO PROHIBIT OR REGULATE THE DISCHARGE OF SEWAGE OR OTHER POLLUTING MATTER INTO THE COASTAL WATERS OF BARNSTABLE, DUKES AND NANTUCKET COUNTIES.**

SECTION 1. The department of public health, hereinafter called the department, is hereby authorized and directed to prohibit the entrance or discharge into or on any of the tidal waters and flats in the counties of Barnstable, Dukes and Nantucket, or the tributaries of such waters, of sewage or any other substance which might be injurious to the public health or might tend to contaminate any of said tidal waters or flats from which shellfish are taken.

SECTION 2. The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall have jurisdiction in equity to enforce the provisions of this act and any order made by the department in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney general upon the request of the department.

SECTION 3. Whoever permits the entrance or discharge into or on any part of said waters or flats, or the tributaries of such waters, of sewage or any other substance injurious to the public health or tending to contaminate any area from which shellfish are taken shall be punished by a fine of not more than five hundred dollars.

SECTION 4. In carrying out the provisions of this act, the department shall not interfere with any prescriptive right of drainage existing on the

effective date of this act, nor shall said department prohibit the use of any sewer or drain or any outlet thereof existing on said effective date unless authorized by law so to do.

SECTION 5. The department shall, of its own motion or at the request of the officials of any town in or near which said waters or flats are situated or of any factory or other establishment situated on or near said waters and flats, consult and advise with said officials as to the best practicable and reasonably available means of rendering harmless the sewage, waste or refuse from such town or establishment. In any case wherein the department determines that the best practicable and reasonably available means of disposing of such sewage, waste or refuse is to discharge the same into tidal waters from which shellfish are taken for use as bait only, the provisions of this act shall not apply.

Acts of 1938, 200.

**TO PROHIBIT FURTHER POLLUTION OF THE CHARLES RIVER.**

No city or town bordering on the Charles river shall, on or after the effective date of this act, establish or maintain any new or additional outlet into said river for the disposal of sewage. The superior court shall have jurisdiction in equity to restrain any violation of this act.

Acts of 1936, 188.

**PROVIDING RELIEF IN THE CITY OF BOSTON AGAINST THE ESCAPE OR DISCHARGE OF CINDERS, ASHES OR OTHER SOLIDS FROM BUILDINGS IN OR UPON WHICH A FURNACE OR BOILER WITH A FORCED OR INDUCED DRAFT IS USED.**

SECTION 1. Owners or lessees, or persons in control of the operation, of any building in the city of Boston in or upon which a furnace or boiler with a forced or induced draft is used, shall install such equipment designed to prevent, so far as is reasonably practicable, the escape of cinders, ashes or other solids from the stacks of such building as the department of public utilities shall, upon petition of the attorney general, and after notice to such owner, lessee or person and a public hearing, approve as necessary, expedient and practicable under all the circumstances.

SECTION 2. If upon such hearing the said department shall find that it is necessary, expedient and practicable under all the circumstances that such equipment as so approved shall be installed in the building complained of, it shall issue its order to that effect and shall fix the time, with power by further order or orders, after notice to the attorney general and a public hearing to extend such time for good cause shown, within which such equipment shall be installed.

SECTION 3. Any such owner, lessee or person who fails to obey such order of the said department within the time prescribed by said department and



thereafter operates any boiler or stack to which such order applies shall be punished by a fine of not more than one thousand dollars and by a further fine of not more than one thousand dollars for each month after the expiration of such prescribed time during which said order remains unobeyed; provided, however, that if a review be had in accordance with section five of chapter twenty-five of the General Laws, as appearing in the Tercentenary Edition, no prosecution shall be commenced hereunder until the issuance of a final decree of the supreme judicial court affirming the order of said department, and in the event of such review the time prescribed by the department shall begin to run from the date of such final decree instead of from the date of the order of said department. Prosecution under this act may be begun by complaint brought by or under the direction of the attorney general in any municipal or district court within the jurisdiction of which the building complained of is situated or by indictment by the grand jury for Suffolk county.

ACTS OF 1935, 381.

**PROHIBITING THE DISCHARGE OF OILS AND THEIR PRODUCTS, REFUSE AND CERTAIN OTHER MATTER INTO OR ON THE WATERS AND FLATS OF BOSTON HARBOR AND ITS TRIBUTARIES.**

**SECTION 1.** Whoever pumps, discharges or deposits or causes to be pumped, discharged or deposited, any crude petroleum or any of its products, or any other oils, or any bilge water or water from any receptacle containing any of said substances, or any other matter or refuse, into or on the waters or flats of Boston harbor, as defined in section one of chapter ninety-one of the General Laws, as appearing in the Tercentenary Edition, or its tributaries, in such a manner and to such an extent as to be a pollution or contamination of said waters or flats or a nuisance or to be injurious to the public health, shall be punished by a fine or not more than five hundred dollars. But the use of oil for the extermination of mosquitoes or other insects in any place within the limits of such harbor, tributaries or flats which shall be declared to be a breeding place of mosquitoes or other insects by the town, city or county within which such place is located, the commonwealth or the federal government, or by their respective duly authorized officers, or by the commissioners of a reclamation district or of a mosquito control project, acting under chapter two hundred and fifty-two of the General Laws, shall not be deemed to be a violation of the provisions of this act, provided such use of oil conforms to such rules and regulations pertaining thereto as shall be duly established by such town, city, county, the commonwealth or federal government, or by their duly authorized officers, or by such district or project commissioners. The provisions of this act shall be enforced by the state department of public safety and by all officers authorized to make arrests.

**SECTION 2.** Nothing in section one shall prevent the disposal of sewage by any municipality, district or public institution in any manner authorized by

law or prevent any corporation or person from disposing of sewage in accordance with express statutory authority, or interfere with any prescriptive right of drainage, or prevent the use of any sewer, or drain, or outlet thereof lawfully existing; but neither this nor section one shall in any way limit the powers of the department of public health or of any local board of health.

ACTS OF 1933, 366, § 3.

**EMERGENCY FINANCE BOARD.**

Any officer or department of a city or town charged with the duty of carrying out any project so approved shall have, in addition to any powers expressly given by statute, such powers as may be determined and certified by the board to be proper and reasonably necessary to carry out such project, including the power to take property by eminent domain on behalf of such city or town provided that no source of water supply and no works for the disposal of sewage shall be installed without first having the approval of the state department of public health. If such officer or department is aggrieved by such action, he or it may, within ten days after notice thereof, appeal to the governor, whose decision shall be final. The board is hereby authorized to make all necessary orders, rules and regulations and perform all necessary actions under this act; and none of such orders, rules, regulations and actions shall be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. Nothing in this act shall require any action in contravention of applicable federal laws and rules and regulations nor preclude action in conformity therewith.

ACTS OF 1936, 278.

**AUTHORIZING THE STATE PLANNING BOARD TO ACT JOINTLY WITH COMMISSIONS OR INDIVIDUALS DESIGNATED BY OTHER NEW ENGLAND STATES AND NEW YORK IN FORMULATING COMPACTS FOR THE DEVELOPMENT AND IMPROVEMENT OF NATURAL WATERWAYS COMMON TO ANY TWO OR MORE OF SAID STATES.**

**SECTION 1.** The state planning board is hereby requested and thereunto empowered as a representative of this commonwealth to meet with commissions or individuals designated by the other New England states, the state of New York and the federal government, or any of them, and thereunto empowered, for the purpose of negotiating one or more compacts to regulate matters relating to the development and improvement of any or all the natural waterways flowing through, or situated within the boundaries of, any of said states and also this commonwealth and also of any or all their tributary natural waterways within any of said states or this commonwealth, including the elimination of pollution from such waterways and the carrying out of public works projects on the banks thereof and adjacent areas.

**SECTION 2.** The state planning board shall submit to the general court for ratification any such pro-



posed compact or compacts to which the commonwealth may become a party, and shall from time to time report on the progress of negotiations and recommend such legislation as it may deem necessary or desirable to supplement said compacts by filing drafts thereof with the clerks of the house of representatives or the clerk of the senate.

ACTS OF 1926, 391.

TO PROMOTE THE PREVENTION AND CURE OF CANCER  
AND THE EXTENSION OF RESOURCES FOR ITS  
CARE AND TREATMENT.

SECTION 1. The department of public health, hereinafter called the department, is hereby authorized and directed to formulate a plan for the care and treatment of persons suffering from cancer, with a view to taking any necessary initial steps toward the establishment of necessary hospital facilities for such care and treatment by the construction of new hospital buildings, by the use of existing buildings or by additions to existing buildings. The department shall, from time to time, submit such plan to the governor and council and to the budget commissioner, and shall report its final plan to the general court not later than October fifteenth in the current year, with drafts of such legislation as may be necessary to carry the same into effect, and shall at the same time file copies thereof with the said budget commissioner.

SECTION 2. The department shall establish and organize cancer clinics in such parts of the commonwealth as it may deem most advantageous to the public health and shall conduct such clinics with or without cooperation on the part of municipalities, local physicians and other agencies.

SECTION 3. Subject to appropriation, the department may expend during the current fiscal year for the purposes of sections one and two a sum not exceeding fifteen thousand dollars.

SECTION 4. For the purpose of providing immediate care and treatment for persons suffering from cancer, the department is hereby authorized to make use of the Norfolk state hospital and may suitably condition and equip the same. Subject to appropriation, there may be expended for the purposes of this section during the current fiscal year a sum not exceeding one hundred thousand dollars.

ACTS OF 1927, 323.

RELATIVE TO THE PURCHASE OF RADIUM BY THE COMMONWEALTH AND TO THE USE OF THE SAME TO  
ALLEVIATE DISTRESS CAUSED BY CANCER.

SECTION 1. Subject to appropriation as herein-after provided, the department of public health is hereby authorized to purchase radium, which shall be entrusted to the Pondville hospital, for use in the treatment of persons within the commonwealth afflicted with cancer. This radium, or the radio-active substances derived therefrom, are to be used at said hospital and elsewhere as the said department may

designate under such rules and regulations as it may promulgate. For the purposes of this section, the said department may expend during the current year such sum, not exceeding seventy thousand dollars, as may be appropriated.

SECTION 2. Each year for a period of not less than ten years there shall be appropriated not less than ten thousand dollars to provide for the care of radium and for the extraction, purification and distribution of the radio-active substances in such forms as may seem to the said department most advantageous for use in alleviating distress caused by cancer.

ACTS OF 1935, 496.

AUTHORIZING THE ESTABLISHMENT AND MAINTENANCE AT THE WESTFIELD STATE SANATORIUM  
OF A DIVISION FOR THE CARE AND TREATMENT  
OF PERSONS SUFFERING FROM CANCER.

SECTION 1. The department of public health is hereby authorized to establish and maintain at the Westfield state sanatorium a division for the care and treatment of persons suffering from cancer.

SECTION 2. Patients may be admitted to said division in the same manner and upon the same terms as to the Pondville hospital under sections sixty-nine A to sixty-nine D, inclusive, of chapter one hundred and eleven of the General Laws, as appearing in the Tercentenary Edition thereof, and the provisions of said sections shall, so far as apt, apply to said division.

ACTS OF 1934, 78.

RELATIVE TO CONTRACTS FOR SUPPLYING HOSPITAL  
FACILITIES TO PERSONS SUFFERING FROM TUBERCULOSIS IN THE TUBERCULOSIS HOSPITAL DISTRICT COMPRISING CHELSEA, REVERE AND  
WINTHROP.

SECTION 1. From and after June thirtieth, nineteen hundred and thirty-four, the department of public health may arrange for the admission, care and treatment, for such periods as it may from time to time determine, at any institution within the commonwealth, approved by the department, of persons suffering from pulmonary tuberculosis who are residents of any of the municipalities comprising the tuberculosis hospital district of Chelsea, Revere and Winthrop, and such arrangements shall be deemed to be satisfactory compliance with the provisions of sections seventy-eight to ninety, inclusive, of chapter one hundred and eleven of the General Laws, requiring adequate hospital care for such persons; provided, that arrangements made hereunder shall not be discontinued except after one year's written notice by the department to said district.

SECTION 2. The provisions of sections eighty-eight and ninety of said chapter one hundred and eleven shall apply to all persons admitted to any institution under authority of section one, except that the application for any such admission shall be made or approved by the board of health of the city or town in which such person resides, and that the



charge for the support of any such person shall in the first instance be paid by the trustees of said hospital district. The said trustees may provide sums necessary to carry out the provisions of section one, by borrowing the same on the credit of the district, and issue therefor notes of the district, payable in not more than eighteen months from their respective dates of issue, from the reimbursements received from the municipalities of the district as hereinafter provided. They shall annually in January determine the total amount already expended or due from the district under section one during the previous year, and shall apportion the same to and may collect the same from the several municipalities liable in like manner as the cost of maintenance of hospitals is apportioned and collected under section eighty-five of said chapter one hundred and eleven, and the same shall be applied to the payment of the temporary debt incurred by said district.

#### REFERENCES.

Acts of 1937, 402.

RATIFYING A PROPOSED COMPACT BETWEEN THE COMMONWEALTH AND THE STATES OF CONNECTICUT, NEW HAMPSHIRE AND VERMONT RELATIVE TO FLOOD CONTROL IN THE CONNECTICUT RIVER VALLEY AND PROVIDING FOR THE APPOINTMENT AND COMPENSATION OF THE MEMBERS REPRESENTING THE COMMONWEALTH UPON THE COMMISSION THEREBY ESTABLISHED.

Acts of 1937, 397.

PROVIDING FOR THE ACQUISITION OF PROPERTY FOR FLOOD CONTROL PURPOSES IN THE CONNECTICUT RIVER VALLEY, FOR COMPLIANCE BY THE COMMONWEALTH WITH THE INTERSTATE COMPACT RELATIVE THERETO, AND FOR FURTHER STUDY RELATIVE TO SUCH FLOOD CONTROL.

Acts of 1937, 441.

RELATIVE TO THE ISSUE BY THE COMMONWEALTH OF BONDS IN CONNECTION WITH THE ACQUISITION OF PROPERTY FOR FLOOD CONTROL PURPOSES IN THE CONNECTICUT RIVER VALLEY.

Acts of 1937, 446.

RELATIVE TO THE TERMS OF CERTAIN BONDS, NOTES OR OTHER FORMS OF WRITTEN ACKNOWLEDGMENT OF DEBT TO BE ISSUED BY THE COMMONWEALTH.

Acts of 1937, 403.

RATIFYING A PROPOSED COMPACT BETWEEN THE COMMONWEALTH AND THE STATE OF NEW HAMPSHIRE RELATIVE TO FLOOD CONTROL IN THE MERRIMACK RIVER VALLEY AND PROVIDING FOR THE APPOINTMENT AND COMPENSATION OF THE MEMBERS REPRESENTING THE COMMONWEALTH UPON THE COMMISSION THEREBY ESTABLISHED

Acts of 1937, 428.

PROVIDING FOR THE ACQUISITION OF PROPERTY FOR FLOOD CONTROL PURPOSES IN THE MERRIMACK RIVER VALLEY, FOR COMPLIANCE BY THE COMMONWEALTH WITH THE INTERSTATE COMPACT RELATIVE THERETO, AND FOR FURTHER STUDY RELATIVE TO SUCH FLOOD CONTROL.

Acts of 1937, 442.

RELATIVE TO THE ISSUE BY THE COMMONWEALTH OF BONDS IN CONNECTION WITH THE ACQUISITION OF PROPERTY FOR FLOOD CONTROL PURPOSES IN THE MERRIMACK RIVER VALLEY.

Acts of 1947, 421.

AUTHORIZING THE RATIFICATION OF A PROPOSED COMPACT BETWEEN THE COMMONWEALTH AND CERTAIN STATES SPECIFIED THEREIN, PROVIDING FOR ABATEMENT OF EXISTING POLLUTION AND CONTROL OF FUTURE POLLUTION OF INTERSTATE WATERS.

#### MISCELLANEOUS

##### MASSACHUSETTS HEARING TEST.

###### METHOD OF TESTING HEARING.

If possible, one person should do the testing for an entire school system in order to insure a comparable method. The person selected should be one possessed of normal hearing, and preferably one who has had experience in handling very young children.

The testing should be conducted in as quiet a place as possible. The discreet frequency audiometer test is preferred. This test may be given on a group basis, as through use of the Massachusetts Hearing Test or on an individual basis. If it is not possible to test with the discreet frequency audiometer, a speech phonograph audiometer test should be given.

School testers should receive training in the proper use of the test equipment prior to starting a testing program.

##### HEARING TESTING PROCEDURE FOR GROUP PURE TONE SECTION OF TEST

Forty school desks can be serviced with receivers when leads from each tray of phones are connected to the coupling network in the center of the schoolroom. Mimeographed forms are distributed to the children and a section of the form reproduced on the blackboard. When the receivers have been placed on the right ears of the children, they are informed that the tester will call out a series of numbers ranging from one to six. The children are further informed that after each number is called they may hear a faint signal or they may hear nothing. If they hear a signal they are to underline the "yes" opposite the proper number on their answer sheet. If they hear nothing, they are to underline the "no" opposite the proper number.

The tester then selects at random a particular master sheet from a group of five master sheets and the testing sequence set forth on this master sheet



is followed. Practice testing is done only at 512 c.p.s. After each trial a mass verbal response is demanded from the children. The correctness (or incorrectness) of the response is confirmed by the tester, who then illustrates the proper method of underlining on the blackboard. Illustration may be dispensed with in the case of older children.

In testing, the operator sets up a rhythm as follows: "One—(3-sec. interval)—Mark!" "Two—(3-sec. interval)—Mark!"—etc. Intervals are held approximately constant regardless of whether a signal is injected or not.

The master sheet also provides the signal sequence for the tester to follow in the test proper. All five master sheets contain a large proportion of affirmative responses, since otherwise it has been found that children tend to imagine that they can hear a signal when, in fact, none is present.

The tone interrupter control is used manually by the tester. Because of a time delay associated with use of the tone interrupter, it is important that the tester not overshorten the signal interval. The signal or nonsignal interval is not critical, but should be of a total minimum length of three seconds. A warning that "the next signals are very high" is given to the children prior to testing at the 11,584 frequency.

The children are tested at 512, 1024, 4096, and 11,584 c.p.s. at attenuator settings which have previously been found to produce satisfactory db levels. Signal strength is never varied within a given frequency test block.

After the tester has completed the signal and no-signal sequence for the right ear, the children are instructed to place their receivers over their left ears, whereupon the tester follows the sequence for the left ear prescribed by the previously selected master sheet.

The group pure tone section of the test is flexible in that signals may be repeated an indefinite number of times, or the test may be delayed if sudden, extraneous noise occurs. It has been found that such repetitions or delays do not invalidate the test runs.

#### SCORING.

Prior to collection of the test papers the children are instructed to count up the underlined "noes" in the right ear column and in the left ear column and to enter these two "no" totals at the bottom of their respective columns. With younger children the procedure is illustrated by quick reference to the blackboard replica of the test form. On collection of test papers, the tester immediately discards all papers which have a correct "no" total for each ear. Also discarded are papers the totals of which are in error by two "noes" or less per ear. In the latter case, however, the actual configurations are checked briefly at one point only in order to insure that such subjects did not merely guess at a passing total.

Failing children, i.e., children whose total number of "noes" differed from the correct amount by more than two, plus absentees, are scheduled for a later group pure tone test. At group retest, children are instructed not to sit in the same seats which they occupied during the first group test, a precaution

which also might well be observed when testing with the phonograph speech test. Children failing on the group retest are given an individual pure tone test prior to referral to an otologist.

Using the scoring methods described above, a group of 40 children can be tested with the group pure tone method and all papers graded in approximately 17 minutes.

## INSTRUCTIONS

### FOR

## MASSACHUSETTS VISION

### TEST

#### I. INSTRUCTIONS FOR GRADE III AND ABOVE.

1. *Tester Attributes.* It is recommended that testers be under 40 years of age, since testing is physically arduous. The tester should be properly motivated—i.e., he should *want* to do the work. Experience in handling very young children is desirable. Testers should have corrected vision of 20/20. The tester should not have a marked hearing loss nor any other physical impairment which would tend to interfere with dexterity. It is well to remember that the tester's skill must, in the end, satisfy the school nurse, since it is she who is obliged to carry out with good confidence all follow-up activities.

2. *Setting Up Equipment.* Low general illumination in the testing room should be provided. Such general illumination should be sufficient to permit the outline of the test house to be seen clearly at a distance of 20 feet. Bright patches of light in the area of the chart should be avoided, since such patches tend to set up additional red lines during the heterophoria testing.

Narrow, corridor-like testing areas should be avoided.

The test chart should be placed up against a wall. The chart should never be placed in the center of a large room, since the subject cannot locate the red line of heterophoria test accurately when the background is broken sharply.

On-deck children are seated with their backs to the test chart.

The 20 foot distance between *chart screen* and the *seated subject's eyes* should be carefully measured. This measurement should be maintained to plus or minus three inches.

3. *Position of Tester.* One tester does all the work. It is recommended that the tester stand behind the seated subject rather than sit before the subject. Standing behind the subject increases the Test's time advantage markedly, since otherwise constant reference must be made to a chart replica. Care must be taken to insure that the subject does not squint.

4. *Psychological Factors.* The psychological set of the tester should be such as to elicit the optimum "reading" performance of the subject. In accordance with this philosophy, the tester should actively urge



a hesitant subject to **guess** at the correct orientation of the symbols. In Test I, particularly, a failing score is better given through an actual accumulation of three errors than through acceptance of a negative verbal response.

The tester should use discretion in failing a child, particularly in Test I. For example, if rigid adherence to the 20/20—2 standard prevails, a subject who correctly designates the orientation of only three symbols in the "20" line automatically fails. Actually in such a case, it is much wiser to attempt the "20" line again. As a working principle, whenever the tester feels that a failing reading performance may be appreciably bettered, as many as three consecutive attempts at the same level may reasonably be made.

**The best single performance in terms of reading success is then taken as the final score.** This principle applies both to Test I and Test II.

Another testing principle is *confirmation* of success in the case of a hesitant subject. For example, if a subject hesitates to read the "20" line in Test I, he is first urged to guess at the correct orientation. If his guess happens to be correct, he is told outright, "That's right!" Or, if his second guess is correct he is openly informed that he has made a correct decision. This method operates to build up the confidence of the child.

In order to minimize memorization, the tester should move at will from one box to the other. The requested progression across the lines should also be varied from left to right to right to left.

In handling the subjects the tester should strive to attain a brisk, efficient atmosphere, albeit a kindly one. Time is important and an overly solicitous attitude on the part of the tester is not only unnecessary, but sometimes acts as a source of confusion.

**5. Summary of Scoring.** (See enclosed sheets. These sheets are furnished for the convenience of the tester only. The major instructions and scoring procedures are summarized therein, but such procedure should be modified and extended in accordance with the Instructions proper.)

**6. Retest Procedures.** Every subject who fails a first test must be retested, preferably at a later date. Scoring is identical with scoring used in the original test. Testing procedures are also identical, except for the following changes in the heterophoria sequences:

(a) If a subject states on retest that the bright red line does not go through the window or through the house, as the case may be, he is told, "You remember where the bright red line is. I'll take your glasses off and you walk down and put your finger on the place where the bright line was. Will you remember where it was?"

The Maddox Rod spectacles are then removed, the small white light source at the window is extinguished and the subject is told to walk toward the chart, in order to put his finger on the place where he saw the bright red line. If rectilinear projection clearly shows that the subject saw the red line passing through the window or through the house, as the case may be,

this result is given precedence over any verbal response the subject may have made and the subject thus obtains a passing score. If, however, rectilinear projection shows that the subject did not see the bright red line in the passing areas, the following procedure is undertaken: The subject is returned to his seat and Maddox Rod spectacles are held in place with bows out in a manner such that the Maddox Rod is before the left eye rather than before the right eye. If the subject has a real imbalance, the bright red line should then be seen on the opposite side of the small white light source. The linear displacement of the red line from the white light source should be approximately the same as it was with the spectacles in their normal position. However, this displacement sometimes is not the same, quantitatively speaking.

The important thing is that the subject report an actual crossover with respect to the white light source.

The heterophoria checks described above can be applied very quickly and serve to give the tester confidence in the terminal score.

Children sometimes mistake the red border around one of the vision boxes as the "bright red line" of the heterophoria tests. A child who places his finger on the red border mentioned above is likely to have misunderstood the instructions. This explains the importance of occluding the eye which does not have the Maddox Rod before it when the subject is asked the question, "Do you see the bright red line?" If properly occluded, the child can at that time see only the appropriate bright red line. Subsequent testing is thus facilitated and confusion is minimized.

In the case of the near heterophoria test the cross-over check **only** should be applied. In both far and near heterophoria, the cross-over check is applied only to reassure the tester as to the reliability of the subject's responses. The criterion for a passing or failing displacement is always the displacement noted when the Maddox Rod spectacles are used in their normal position.

It should be remembered that the intensity of the bright red line is relatively low in the immediate vicinity of the white light source. Rectilinear projection with respect to the window or the house is frequently required, therefore.

## 7. Special Instructions.

1. All occluding of the eyes is done with small cardboard occluders similar to those supplied with the Test.
2. No head tilting is permitted on the part of the subject.
3. Children with glasses are tested exactly the same as children without glasses. In the former case, test glasses are fitted and held over the subject's own glasses.
4. Optical equipment is kept reasonably clean.

## II. INSTRUCTIONS FOR GRADES I AND II.

(Unless specifically contradicted below, instructions of Section I above apply to children in Grades I and II also.)



**1. Preliminary Training.** Preliminary mass instruction of children by the teacher in proper response to illiterate E symbols is recommended. An oversize E may be used for this purpose.

**2. On-deck Subjects.** It is urged that very young children be seated in the testing room prior to screening. Also, such children are seated so that they may view all proceedings. The chances of memorization on the part of such children are small and apprehension is relieved when the testing is viewed unrestrictedly. In connection with relief of apprehension, it is recommended that testing personnel not wear white clothing.

**3. Assistant to Tester.** An assistant who may be an intelligent eighth grader or high school boy or girl is required in testing first and second graders. The assistant exposes, through a cardboard occluder, symbols selected according to instructions given by the tester. An important principle for the assistant tester to observe is never to look at the subject or the tester while in the process of exposing symbols since, whenever the assistant turns his head, the symbol within the aperture become decentered or the surface of the occluder is pulled away from the chart, thus creating a very objectionable shadow. The assistant should take great pains to hold the occluder **very flat** on the chart and center the symbols well.

**4. Individual Training.** Regardless of the type or amount of preliminary classroom instruction, the following steps **must** be observed: Each child is taken to a distance approximately three feet from the chart. Using the chart occluder, "20" symbols are exposed until the tester is satisfied that the subject is able to respond satisfactorily. Symbols other than "20" size are **never** used in these operations.

The subject is then told to walk toward his final testing position. When he arrives at a distance about ten feet away from the chart, he is halted, told to turn around and requested to point out the orientation of two or three "20" symbols, such symbols being exposed through the occluder. In all these preliminary operations, the subject uses binocular vision.

If a subject cannot be taught to give reliable responses within a reasonable period when he is being trained at the chart, he is classed as a failure. This is done on the theory that such a child deserves an objective visual examination on general principles. If preliminary classroom instruction is given, a "reasonable time" may be taken as two minutes.

When the tester decides that the subject's responses are adequate at the ten foot distance, the subject goes to the full 20 foot distance and testing is begun.

**5. Test I.** Test I is **invariably** started by using "20" symbols. Do not try to "work up" from "30" symbols. In this respect the testing of young children is identical with that of older children. It is very important that the guessing, urging and confirmation principles outlined in I (4) above be used regularly in testing very young children. The tester

should drive for a successful completion at the "20" level. Failure in Test I should be based insofar as possible on an accumulation of three errors rather than on the basis of a negative verbal response. Up to three repetitions may be made at the "20" level if the tester feels that there is some prospect of the subject reading a "20" line with a maximum of two errors. Here again, the "best single reading score" is taken as the terminal score.

**6. Test II.** The smaller pair of glasses are used for first and second grades. These glasses are + 1.75 D in power rather than the + 1.50 D power used in grades above the second. Testing is started with the "30" line.

**7. Test III.** Test III is administered in the same manner as in the case of older children except that the checks used only in the retest situation with the older children are used both in the first test and the retest situations with the younger children. **Passing** verbal responses are still accepted from the very young children. Only **failing** or **ambiguous** responses are subject to check.

## SUMMARY OF SCORING

### Test I

When child accumulates a failure, testing is immediately stopped.

In Test I and II, a child is considered to have read a line successfully if he recognizes a minimum of four out of six symbols.

Two partial failures are interpreted as a failure.

*Note:* Before testing, the children should be made familiar with the symbol E and should be able to indicate its position vocally or with their hands.

### VISUAL ACUITY TEST

*Procedure:* (Illuminate the Snellen Chart.) Tester should cover child's left eye with occluder.

**A SAY: "KEEP BOTH EYES OPEN. READ THE TOP LINE IN THE BLACK (OR RED) BOX."**

(If child recognizes "20" symbols, he **PASSES**. If he is unable to recognize "20" symbols, he **FAILS**. Omit remaining tests.)  
(If child succeeds in reading top lines in box, cover child's right eye.)

**B SAY: "READ THE TOP LINE IN THE RED (OR BLACK) BOX."**

(If child recognizes "20" symbols, he **PASSES**. (Proceed with Test II.) If he is unable to recognize "20" symbols he **FAILS**. Omit remaining tests.)



**TEST II****PLUS SPHERE TEST**

*Notes:* There are two pairs of spectacles with plus sphere lenses. Use larger pair on children in grades above the second. The child **PASSES** this test if he **CANNOT** designate the symbols. Failure is indicated if he **CAN** designate them properly with no more than two errors.

*Procedure:*

A SAY: "CLOSE BOTH EYES GENTLY."

(Put spectacles on child and hold occluder before left lens.)

SAY: "OPEN YOUR EYES."

"READ THE BOTTOM LINE IN THE BLACK (OR RED) BOX."

(If child does so:)

SAY: "READ THE TOP LINE IN THE BLACK (OR RED) BOX."

(If he is unable to recognize either the "20" or the "30" line, he **PASSES**. Proceed with II (b). If he recognizes "20", he **FAILS**. Omit the remaining tests.)

(If he recognizes "30" but is unable to recognize "20", he is classified as Partial Failure.)

(When a child is unable to read either "20" or "30" lines in black (or red) box, or is able to read only the "30" line, hold occluder before his right lens.)

SAY: "CLOSE BOTH EYES GENTLY."

SAY: "OPEN YOUR EYES."

SAY: "READ THE SECOND LINE IN THE RED (OR BLACK) BOX."

(If child does so:)

SAY: "READ THE TOP LINE IN THE RED (OR BLACK) BOX."

(If he is unable to recognize either the "20" or "30" line, he **PASSES**. Proceed with Test III. If he recognizes "20" he **FAILS**. Omit remaining tests. If he recognizes "30" but is unable to recognize "20" he is classified as Partial Failure. Proceed with Test III unless the score for II (a) was also Partial Failure. In that case, omit remaining tests.)

**TEST III****MADDOX ROD TESTS**

*Procedure:* (Illuminate the window light in house.)

A (Place spectacles with vertical ribs on child. Hold occluder before left eye.)

ASK: "DO YOU SEE THE BRIGHT RED LINE?"

"WHICH WAY DOES IT GO—UP AND DOWN OR ACROSS?"

"SHOW ME WITH YOUR HAND."

(Remove occluder.)

ASK: "DOES THE BRIGHT RED LINE GO THROUGH THE WINDOW OF THE HOUSE?"

(Red line seen through any part of window, **PASSES**. Proceed with III (b). Red line seen above or below window **FAILS**. Omit remaining tests.)

B (Place spectacles with horizontal ribs on child. Hold occluder before left eye.)

ASK: "DO YOU SEE THE BRIGHT RED LINE?"

"WHICH WAY DOES IT GO—UP AND DOWN OR ACROSS?"

(Remove occluder.)

ASK: "DOES THE BRIGHT RED LINE GO THROUGH THE HOUSE?"

(Red line seen through any part of the house, he **PASSES**. Proceed with III (c). Red line seen off the house, he **FAILS**. Omit remaining tests.)

C (Turn out light in house. Turn on switch lighting small hole located in center of dark (aeroplane) panel.) Direct child's attention toward the near phoria unit which should be the distance of the string from the child's temple.

ASK: "DO YOU SEE THE BRIGHT RED LINE?"

SAY: "PUT YOUR FINGER ON THE BRIGHT RED LINE."

(The child will often see the bright red line apparently displaced toward him and away from the plane of the aeroplane. In such cases, the tester should say, "PUSH THE BRIGHT RED LINE! PUSH!")

(If the child sees the red line anywhere between the dotted lines on the rectangular surface, he **PASSES**. If he sees the red line outside the dotted lines on the rectangular surface, he **FAILS**.)

**SCORING**

TEST I VISUAL ACUITY	r. eye	(a)	Recognizes "20"	Passes
	l. eye	(b)	Unable to recognize "20" ditto	Failure ditto
TEST II PLUS SPHERE		(a)	Unable to recognize "20" or "30"	Passes
	r. eye	(b)	Able to recognize "30", but unable to recognize "20"	Partial Failure
	l. eye	(c)	Able to recognize "20" ditto	Failure ditto
TEST III MADDOX ROD			Two Partial Failures	Failure
	Vert. Rod	(a)	Red horizontal line passes through window	Passes
		(b)	Red horizontal line passes above or below window	Failure
	Hor. Rod	(a)	Red vertical line passes through house	Passes
		(b)	Red vertical line passes to one side or other of house	Failure
Hor. Rod Near-Phoria Test		(a)	Red vertical line passes through rectangular front section	Passes
		(b)	Red vertical line passes to one side or other of rectan- gular front section	Failure

## MISCELLANEOUS LAWS

ACTS OF 1949, 473

## DENTAL RESEARCH PROGRAM

SECTION 1. The department of public health is hereby authorized and directed to institute a special program of dental research, for the training of feminine personnel, who shall be enrolled as hygienists. This program shall be conducted under the direction and supervision of the department of public health and the board of dental examiners for a period not exceeding five years, but no funds shall be appropriated for it by the commonwealth, and all funds therefor shall be furnished by the United States government through the agency of the children's bureau of the Federal Security Agency.

The commissioner of public health is hereby designated as the agency of the commonwealth to make application for

grants and assistance and, with the approval of the governor and the commission on administration and finance, to accept any such grant in the name of the commonwealth.

The commissioner of public health, with the approval of the board of dental examiners, may rescind the arrangement with the Federal Security Agency, and cancel such program at any time during said five year period, if, in his opinion, the program is not progressing satisfactorily.

SECTION 2. For the purposes of this dental research program, any student enrolled therein may prepare and fill cavities in children's teeth under the supervision of a registered dentist in a dispensary or clinic approved by the commissioner of public health, the provisions of chapter one hundred and twelve of the General Laws to the contrary notwithstanding.

1949, 473



## MISCELLANEOUS LAWS

ACTS OF 1949, 479

INSTALLATION OF A GAUGING STATION ON  
THE SQUANNAHOOK RIVER

The department of public health is hereby authorized and directed to install a gauging station on the Squannacook river between West Groton and Townsend harbor

in cooperation with the Geological Survey of the United States Department of the interior, and may expend for such purpose such sums as may be appropriated therefor.

1949, 479

## MISCELLANEOUS LAWS

(To be inserted after Dental Research Program,  
on page 196A. )

Chapter four hundred and seventy-three of  
the acts of nineteen hundred and forty-nine,  
providing for a dental research program under

the supervision of the department of public  
health for the training of feminine personnel,  
is hereby repealed.  
1950, 667.





## MISCELLANEOUS LAWS

ACTS of 1949, 662

## ORGANIZATION OF UNION HEALTH DEPARTMENTS

**SECTION 1. UNION HEALTH DEPARTMENTS, FORMATION OF.** Two or more cities or towns may, by vote of the city council and approval of the mayor in the city, and by vote of the town, form a union health department which shall have all the powers and shall perform all the duties exercised or performed, immediately prior to the effective date of this act, by the board of health of the constituent municipalities under any law or ordinance pertaining thereto, and shall perform any further duties and shall have further powers required of or conferred upon local boards of health of the constituent municipalities by law or ordinance or required of or conferred upon local boards of health of municipalities by law except in so far as the union board of health may by vote delegate certain responsibilities to the boards of health of the constituent cities and towns. The union health department shall be administered by a full time director of health who shall be a physician graduated from an approved school of medicine and registered or eligible for registration to practice medicine in the commonwealth or a lay person with specialized training and experience in public health. The department shall set minimum qualifications for the position of director of union health departments and shall pass upon the qualifications of each candidate for appointment to such position. The union board of health shall be comprised of one representative from each constituent municipality and municipalities having a population greater than thirty-five thousand shall have one additional representative for every population unit of thirty-five thousand or fraction thereof beyond the first thirty-five thousand. In no instance shall there be more than five representatives from a single municipality in such a union board of health. Such representative shall be appointed by the board of health in those municipalities where boards of health are elected. In cities and towns where the local board is not elected, such representatives shall

be appointed by the mayor with the approval of the city council unless a definite mode of appointment is provided in the city charter, and in towns shall be appointed by the board of selectman except when other provision is made by law. They shall serve for a period of three years. The representatives of the union boards of health shall be elected or appointed in such manner that approximately one third will be elected or appointed each year. The members of the union board shall serve without compensation but shall receive their necessary traveling expenses while in the performance of their official duties. The union board of health shall meet annually and at such other times as it shall determine by its rules or when requested by the chairman or director of health. When the union of such cities and towns consists of one or more entire counties, the county commissioners of each such county shall elect from their membership a representative to the union board of health.

1949, 662

**SECTION 2. APPLICATION TO STATE DEPARTMENT OF PUBLIC HEALTH.** Prior to the vote in municipalities relative to the formation of any such proposed unions, local boards of health or the county commissioners shall apply to the state department of public health for the formation of a union board of health. If a city or town fails to adopt necessary legislation to become a member of the proposed union the department shall determine the suitability of the union of the remaining municipalities. All municipalities having a population of less than thirty-five thousand shall, within ten years of the effective date of this act, become voluntarily members of such health unions. If, after ten years from said effective date, municipalities having a population of less than thirty-five thousand are not included voluntarily in such unions, the state department of public health, after a public hearing, shall include such municipalities in existing or new unions unless such communities are providing minimum health services as defined by the public health council. Any constituent city or town may, by vote passed prior to July first in any year withdraw from the union, such with-



## MISCELLANEOUS LAWS

drawal becoming effective January first following; provided, that the city or town shall have been a member of the union for at least five years; and, provided further, that provision is made for its inclusion, subject to the approval of the state department of public health, in a separate or another union.

1949, 662

## SECTION 3. TREASURER, APPOINTMENT OF.

The union board shall select a treasurer who may be the treasurer of one of the cities or towns in the union to act as treasurer for such union. Said treasurer shall give to the union board of health bond, with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties in such sums and upon such conditions as the union board of health may require. Said union board of health, annually in the month of December, shall estimate the amount of money required to pay the costs and expenses of the department for the following year, shall fix and determine the proportion of such costs and expenses to be paid by the constituent cities and towns thereof during such year which, however, may not exceed any limit or maximum amount fixed by the city council or town meeting of any city or town which authorizes a union board of health under this act and shall certify the amount so determined for each city and town to the assessors thereof who shall include same in the tax levies of each year. Such apportioned costs shall be on a per capita basis, the total budget of the union being divided by the population exclusive of population in county, state or federal institutions. Upon order of the union board of health, the treasurer of each constituent municipality thereof shall, from time to time, subject to the provisions of section fifty-two of chapter forty-one of the General Laws, pay to the union treasurer sums not exceeding the amount certified by the union board of health as the municipality's share of the cost and expenses of the union. The union treasurer shall distribute the money so received, upon warrant approved by the director of health and

signed by the chairman or vice chairman of the union board.

1949, 662

SECTION 4. DIRECTOR OF HEALTH, APPOINTMENT OF. The union board of health shall appoint and may remove for cause, after public hearing, a director of health. The director shall serve as secretary of the board but shall have no vote. He shall be the executive and administrative head of the union health department and may, with the approval of the union board, designate one or more deputies and may appoint and employ in accordance with chapter thirty-one of the General Laws such assistants as may be provided for in the budget. He shall prepare and present annually to the union board a report and a budget for its approval, together with such recommendations as he may deem proper. The union board of health shall make and promulgate reasonable rules and regulations, take evidence in appeals, consider plans and appointments required by law, hold hearings, and discharge other duties required by law; but it shall have no administrative or executive functions. The union board of health may delegate the holding of hearings to the director or deputy director. The union board may elect an executive committee consisting of the chairman, vice-chairman, secretary and such members as its rules may determine. Said executive committee shall have power to act when the union board is not in session.

1949, 662

SECTION 5. CIVIL SERVICE STATUS. All persons holding office or employment, except the director, in the union board of health shall be subject to the provisions of chapter thirty-one of the General Laws, and the full-time incumbents of any office or position brought under the union board of health shall be transferred to the union board of health without impairment of status, and the positions placed within the civil service in accordance with provisions of said chapter thirty-one. Employees of the union board of health shall be eligible for the retirement system as provided in chapter thirty-two of the General Laws.

## MISCELLANEOUS LAWS

ACTS OF 1949, 770

## CHRONIC DISEASE HOSPITAL

SECTION 1. ACQUISITION OF LAND BY COMMONWEALTH. Notwithstanding any contrary provision of general or special law, the city of Boston, by its mayor, is hereby authorized and empowered to convey to the commonwealth, without consideration, not exceeding fifteen acres of the estate on the northeasterly side of Morton street in the West Roxbury district of said city owned by said city and known as Franklin Park; provided, that the board of park commissioners of said city shall, by vote at a regular or special meeting of said board, assent to the conveyance; and provided, further, that said conveyance is authorized

after two separate readings, by two separate votes of two thirds of all the members of the city council of said city, the second of said readings and votes to be had not less than fourteen days after the first.

SECTION 2. CONSTRUCTION OF CHRONIC DISEASE HOSPITAL BY THE DEPARTMENT OF PUBLIC HEALTH. Any land conveyed to the commonwealth under this act shall, from and after such conveyance, be held for the purposes of the state department of public health, which is hereby authorized and directed to construct on such land a six-hundred bed hospital for the care of persons suffering from chronic diseases, including a nurses' home, out-patient department and other necessary facilities. For the purposes of such construction, said department may expend such sums as may be appropriated therefor.

SECTION 3. Chapter 511 of the acts of 1946 is hereby repealed.





## MISCELLANEOUS LAWS

ACTS OF 1950, 603.

### AUTHORIZING THE METROPOLITAN DISTRICT COMMISSION TO DISCHARGE WATER INTO THE CHARLES RIVER UNDER CERTAIN CIRCUMSTANCES.

Section 1. Whenever water stored in reservoirs under the jurisdiction of the metropolitan district commission is, in the opinion of the commission, ample to meet water supply needs in case of an extreme drought, the commission may, upon the request of the department of public health and with the approval of the department of conservation, discharge water from its Sudbury aqueduct into Lake Cochituate and subsequently discharge water from the lake through the Cochituate aqueduct into the Charles river at such times as the department of public health may specify in order to maintain a steady flow in said river.

Section 2. If it is not feasible for the commission to discharge water into the Charles river in the manner outlined in section one, water may be discharged under the same conditions from the Sudbury aqueduct directly into the Charles river through facilities to be constructed by the commission and paid for by the cities and towns making up the metropolitan parks district.

Section 3. The quantity of water to be discharged in any one calendar day shall not exceed fifteen million gallons and the quantity so discharged in any one year shall not exceed five hundred million gallons. The commission shall be reimbursed for this water at the rate of ten dollars per million gallons apportioned annually among the cities and towns bordering on the Charles river at or below the point of discharge, by the state treasurer, as follows, provided, however, that a majority of the municipalities as represented by their respective mayors or selectmen to be charged hereunder do not in writing object thereto:- Wellesley, eight per cent; Weston, seven per cent; Newton, twenty-two per cent; Waltham, fifteen per cent; Watertown, thirteen per cent; Cambridge, sixteen per cent; Boston, nineteen per cent.

Section 4. All payments received for water so discharged shall be reckoned by the state treasurer as a reduction in the amount of water use development bonds of the metropolitan water district required to be issued under section twenty-six A of chapter ninety-two of the General Laws.

Section 5. This act shall take effect upon its passage.

Approved July 11, 1950.



## MISCELLANEOUS LAWS

ACTS OF 1950, 769.

### AUTHORIZING THE DEPARTMENT OF CORRECTION TO ESTABLISH A CLINIC AT THE STATE FARM FOR THE DIAGNOSIS AND TREATMENT OF CERTAIN PERSONS SUFFERING FROM CHRONIC ALCOHOLISM.

Chapter 125 of the General Laws is hereby amended by inserting after section 48 the following section: Section 48A. The department of correction is hereby authorized and directed to establish and maintain at the state farm, in accordance with standards fixed by the de-

partment of public health, a clinic for the examination, diagnosis and treatment of chronic alcoholics sentenced to said farm for drunkenness. The professional personnel of said clinic shall be appointed by the department of correction with the advice and approval of the public health council of the department of public health. Any person who has received an examination or treatment at such clinic shall, upon his release from said farm, be referred for further treatment to an alcoholic clinic established by the department of public health.

Approved August 16, 1950.

## MISCELLANEOUS LAWS

ACTS OF 1950, 639

### CIVIL DEFENSE

Section 1. In this act, unless the context otherwise requires, the following words shall have the following meanings:-

"Civil defense" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces other than the national guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes; said functions shall include specifically, but without limiting the generality of the foregoing, fire-fighting and police services, medical and health services, rescue, engineering and air-raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions;

"Local organization for civil defense" shall mean an organization created in accordance with the provisions of this act by state or local authority to perform local civil defense functions.

Section 2. There is hereby created within the executive branch of the commonwealth a division of civil defense hereinafter called the "civil defense agency", which shall be under the direction of a director of civil defense hereinafter called the "director". The governor shall, with the advice and consent of the council, appoint the director to serve during his pleasure. The director shall devote his full time to his duties under this act, shall not hold any other public office and shall receive, subject to appropriation, such annual salary as the governor and council approve. He shall co-ordinate the activities of all organizations for civil defense within the commonwealth, and shall co-operate and maintain liaison with civil defense agencies of other states and the federal government,

shall, subject to the direction and control of the governor, be the executive head of the civil defense agency, and shall have such additional authority, duties and responsibilities authorized by this act as may be prescribed by the governor, and shall be responsible to the governor for carrying out the program for civil defense of the commonwealth. The director may, within the limits of the amount appropriated therefor, appoint such experts, clerks and other assistants as the work of the civil defense agency may require and may remove them, and may make such expenditures as may be necessary in order to execute effectively the purposes of this act. Such employees shall not be subject to chapter thirty-one of the General Laws. The director and other personnel of the civil defense agency shall be provided with suitable office space, furniture, equipment and supplies in the same manner as provided for personnel of other state departments.

Section 3. There is hereby created an unpaid civil defense advisory council hereinafter called the "defense council", the members of which shall be appointed by the governor. The defense council shall include such department heads and other officers of the commonwealth as the governor may deem necessary and the director of the civil defense agency. The governor shall appoint the chairman of said defense council to serve during his pleasure. Said defense council shall be in the executive branch of the government and shall serve under the governor and shall be subject to his supervision and control. Said defense council shall advise the governor and the director on matters pertaining to civil defense.

Section 4. The governor shall have general direction and control of the civil defense agency, and shall be responsible for carrying out the provisions of this act and may assume direct operational control over any or all parts of the civil defense functions within the commonwealth; he may at the request of the director authorize the employment of such technical, clerical, stenographic or other personnel, and may make such expenditures, within the appropriation therefor or from other funds made available to him for the purposes of civil defense or to deal with disaster or threatened



disaster should it occur, as may be necessary to carry out the purposes of this act. He may co-operate with the federal government, and with other states and private agencies in all matters pertaining to the civil defense of the commonwealth and the nation, may propose a comprehensive plan and program for the civil defense of the commonwealth, and in accordance with said plan and program may institute training and public information programs and take all other preparatory steps, including the partial or full mobilization of civil defense organizations in advance of actual disaster as he may deem necessary. He may make studies and surveys to ascertain the capabilities of the commonwealth for civil defense and to plan for the most efficient emergency uses thereof, may delegate any administrative authority vested in him under this act, and may appoint, in co-operation with local authorities, metropolitan area directors.

Section 5. Because of the existing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, in order to insure that the preparations of the commonwealth will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health, security and safety, and to preserve the lives and property of the people of the commonwealth - if and when the congress of the United States shall declare war, or if and when the President of the United States shall by proclamation or otherwise inform the governor that the peace and security, of the commonwealth are endangered by belligerent acts of any enemy of the United States or of the commonwealth or by the imminent threat thereof, or upon the occurrence of any disaster or catastrophe resulting from attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes, the governor may issue a proclamation or proclamations setting forth a state of emergency.

(a) Whenever the governor has proclaimed the existence of such a state of emergency, he may employ every agency and all members of every department and division of the government of the commonwealth to protect the lives and property of its citizens and to enforce the law. Any member of any such department or division so employed shall be entitled to the protection of existing applicable provisions of law relative to any type of service of the

commonwealth as well as the protection afforded by this act.

(b) After such proclamation has been made, the governor may, in the event of disaster or shortage making such action necessary for the protection of the public, take possession (1) of any land or building, machinery or equipment; (2) of any horses, vehicles, motor vehicles, aircraft, ships, boats or any other means of conveyance, rolling stock of steam, diesel, electric railroads or of street railways; (3) of any cattle, poultry and any provisions for man or beast, and any fuel, gasoline or other means of propulsion which may be necessary or convenient for the use of the military or naval forces of the commonwealth or of the United States, or for the better protection or welfare of the commonwealth or its inhabitants as intended under this act. He may use and employ all property of which possession is taken, for such times and in such manner as he shall deem for the interests of the commonwealth or its inhabitants, and may in particular, when in his opinion the public exigency so requires, lease, sell, or, when conditions so warrant, distribute gratuitously to or among any or all of the inhabitants of the commonwealth anything taken under clause (3) of this paragraph. If real estate is seized under this paragraph a declaration of the property seized containing a full and complete description shall be filed with the register of deeds in and for the county in which the seizure is located, and a copy of said declaration furnished the owner. If personal property is seized under this paragraph the civil defense authorities by whom seized shall maintain a docket containing a permanent record of such personal property, and its condition when seized, and shall furnish a true copy of the docket recording to the owner of the seized property. He shall, with the approval of the council, award reasonable compensation to the owners of the property which he may take under the provisions of this section, and for its use, and for any injury thereto or destruction thereof caused by such use.

(c) Any owner of property of which possession has been taken under paragraph (b), to whom no award has been made, or who is dissatisfied with the amount awarded him by the governor, with the approval of the council, as compensation, may file a petition in the superior court, in the county in which he lives or has a usual place of business, or in the county of Suffolk, to have the amount to which he is entitled by

way of damages determined. The petitioner and the commonwealth shall severally have the right to have such damages assessed by a jury, upon making claim, in such a manner as may be provided, within one year after the date when possession of the property was taken under paragraph (b), except that if the owner of the property is in the military service of the United States at the time of the taking, it shall be brought within one year after his discharge from the said military service.

(d) Any owner of property of which possession has been taken under this act, to whom no award has been made, or who is dissatisfied with the amount awarded him as compensation by the governor, with the approval of the council, may have his damages assessed under chapter seventy-nine of the General Laws, instead of proceeding under the provisions of this act. If any such taking, in itself, constitutes an appropriation of property to the public use, compensation may be recovered therefor under chapter seventy-nine of the General Laws from the body politic, or corporate, appropriating such property.

Section 6. The governor shall have the power and authority to co-operate with the federal authorities and with the governors of other states in matters pertaining to the common defense or to the common welfare, and also so to co-operate with the military and naval forces of the United States and of the other states, and to take any measures which he may deem proper to carry into effect any request of the President of the United States for action looking to the national defense or to the public safety.

Section 7. During the effective period of so much of this act as is contingent upon the declaration of a state of emergency as hereinbefore set forth, the governor, in addition to any other authority vested in him by law, shall have and may exercise any and all authority over persons and property, necessary or expedient for meeting said state of emergency, which the general court in the exercise of its constitutional authority may confer upon him as supreme executive magistrate of the commonwealth and commander-in-chief of the military forces thereof, and specifically, but without limiting the generality of the foregoing, the governor shall have and may exercise such authority relative to any or all of the following:-

(a) Health or safety of inmates of all institutions.

(b) Maintenance, extension or interconnection of services of public utility or public-service companies, including public utility services owned or operated by the commonwealth or any political subdivision thereof.

(c) Policing, protection or preservation of all property public or private, by the owner or person in control thereof, or otherwise.

(d) Manufacture, sale, possession, use of ownership of (1) fireworks or explosives, or articles in simulation thereof; (2) means or devices of communication other than those exclusively regulated by federal authorities; (3) articles or objects (including birds and animals) capable of use for the giving of aid or information to the enemy or for the destruction of life or property.

(e) Transportation or travel on Sundays or week-days by aircraft, watercraft, vehicle or otherwise, including the use of registration plates, signs or markers thereon.

(f) Labor, business or work on Sundays or legal holidays.

(g) Assemblages, parades or pedestrian travel, in order to protect the physical safety of persons or property.

(h) Public records and the inspection thereof.

(i) Regulation of the business of insurance and protection of the interests of holders of insurance policies and contracts and of beneficiaries thereunder and of the interest of the public in connection therewith.

(j) Vocational or other educational facilities supported in whole or in part by public funds, in order to extend the benefits or availability thereof.

(k) The suspension of the operation of any statute, rule or regulation which affects the employment of persons within the commonwealth when, and at such times as such suspension becomes necessary in the opinion of the governor to remove any interference, delay or obstruction in connection with the production, processing or transportation of materials which are related to the prosecution of war or which are necessary because of the existence of a state of emergency.

(l) Regulation of the manner and method of purchasing or contracting for supplies, equipment or other property or personal or other services, and of contracting for or carrying out public works, for the commonwealth or any of its agencies or political subdivisions.

(m) Receipt, handling or allocation of money, supplies, equipment or material granted, loaned or allocated by the federal government to the commonwealth or any of its agencies or political



subdivisions.

(n) Protection of depositors in banks, and maintenance of the banking structure of the commonwealth.

(o) Variance of the terms and conditions of licenses, permits or certificates of registration issued by the commonwealth or any of its agencies or political subdivisions.

(p) Regulating the sale of articles of food and household articles.

(q) Modification or variation in the classifications established under sections forty-five to fifty, inclusive, of chapter thirty of the General Laws and sections forty-eight to fifty-six, inclusive, of chapter thirty-five of the General Laws.

Section 8. The governor may exercise any power, authority or discretion conferred on him by any provision of this act pertaining to such section as required preparation in anticipation of a declaration of a state of emergency by the issuance or promulgation of executive orders or general regulations, or through such department or agency of the commonwealth, including the civil defense agency, or of any political subdivision thereof, or such person as he may direct by a writing signed by him and filed in the office of the state secretary. Any department, agency or person so directed shall act in conformity with any regulations prescribed by the governor for its or his conduct.

Whoever violates any provision of any such executive order or general regulation issued or promulgated by the governor, for the violation of which no other penalty is provided by law, shall be punished by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or both.

Section 8A. Any provision of any general or special law or of any rule, regulation, ordinance or by-law to the extent that such provision is inconsistent with any order or regulation issued or promulgated under this act shall be inoperative while such order or such last-mentioned regulation is in effect; provided that nothing in this section shall be deemed to affect or prohibit any prosecution for a violation of any such provision before it became inoperative.

Section 9. Notwithstanding the provisions of chapter thirty-one of the General Laws, or any other provision of law affecting civil ser-

vice, and the rules made thereunder or and after the declaration of a state of emergency, the director of civil service, supported by a majority vote of the civil service commission may:-

(a) Approve or extend provisional appointments without time limitations until lists can be established or until appointments can be made from eligible lists.

(b) Extend temporary appointments which are made from civil service lists beyond the life of the list.

(c) Allow temporary transfers, without regard to classification, beyond a period of six months.

(d) Restrict leaves of absence except for entrance into the armed forces of the United States, for illness, and for such other reason as said director deems to be in the public interest.

(e) Exclude from eligible lists the names of individuals who refuse to accept positions which they have previously signified a willingness to accept.

(f) Restore to the eligible lists the names of persons so removed.

(g) Exclude from the operation of the civil service laws and rules and regulations any of the positions or employments in temporary agencies, boards or other governmental units of the commonwealth or of its political subdivisions, the existence and powers of which agencies, boards or other units are limited to a period terminating not later than one year after the termination of any future declaration of a state of emergency, or any lesser periods.

(h) Shall approve in writing the temporary re-employment of any former officer or employee of the commonwealth or of any political subdivision thereof who has been retired under any retirement or pension law, or who has been separated from the public service by reason of superannuation or disability without a retirement allowance or pension to any position or employment subject to chapter thirty-one of the General Laws. Any person so employed shall receive full compensation for such services less any retirement allowance or pension received by him. The written approval of the appointing officer, board or committee shall be required in the re-employment of such former officers or employees to any office or employment not subject to said chapter thirty-one.

Any appointment or transfer made under this section shall be effective only for the period during which this section is to be operative.

Section 10. During any blackout or during the period between the air-raid warning and the following "all clear" signal, regular, special and reserve members of the police and fire forces of the commonwealth or of its political subdivisions, and members of the state guard and the armed forces of the United States, while in uniform, may enter upon private property for the purpose of enforcing blackout or air-raid precaution rules, regulations or orders issued by or under authority of the governor. Such members may at any time enter upon private property in compliance with the written order of the governor, for the sole purpose of enforcing the laws, rules, regulations, by-laws or ordinances specifically set forth by the governor in such orders; provided, that nothing in this section shall be construed or deemed to prohibit any entry upon private property otherwise authorized by law. Any entry made under the foregoing provision shall be reported by the person making such entry forthwith to the director of the local organization for civil defense.

Section 11. (a) The mayor and city council in cities and the selectmen in towns, or such other persons or bodies as are authorized under existing laws to appoint firemen or policemen, may appoint, train and equip volunteer, unpaid auxiliary firemen and auxiliary police and may establish and equip such other volunteer, unpaid public protection units as may be approved by said civil defense agency and may appoint and train their members. Chapters thirty-one, thirty-two and one hundred and fifty-two of the General Laws shall not apply to persons appointed hereunder.

(b) Cities and towns may by ordinance or by-law, or by vote of the aldermen, selectmen, or board exercising similar powers, authorize their respective police departments to go to aid another city or town at the request of said city or town in the suppression of riots or other forms of violence therein, and, while in the performance of their duties in extending such aid, the members of such departments shall have the same powers, duties, immunities and privileges as if performing the same within their respective cities or towns. Any such ordinance, by-law or vote may authorize the head of the police department to extend such

aid subject to such conditions and restrictions as may be prescribed therein. Any city or town aided under and in accordance with this section shall compensate any city or town rendering aid as aforesaid for the whole or any part of any damage to its property sustained in the course of rendering the same and shall reimburse it in whole or in part for any payments lawfully made to any member of its police department or to his widow or other dependents on account of injuries or death suffered by him in the course of rendering aid as aforesaid or of death resulting from such injuries.

(c) The head of the fire or police department of any town or city of the commonwealth shall, after the issuing of any proclamation provided for in this act, order such portion of his department, with its normal equipment, as the governor may request, for service in any part of the commonwealth where the governor may deem such service necessary for the protection of life and property. When on such service, police officers and firemen shall have the same powers, duties, immunities and privileges as if they were performing their duties within their respective cities or towns. The commonwealth shall compensate any city or town for damage to its property sustained in such service and shall reimburse it for any payments lawfully made by it to any member of its police or fire department or to his widow or other dependents on account of injuries sustained by him in such service or of death resulting from such injuries. Persons appointed to the auxiliary police force in a city or town shall exercise or perform such of the powers or duties of police officers as may be prescribed by the appointing authority; provided, that said powers or duties shall not be exercised or performed by them except while they are on active duty and displaying an authorized badge or other insignia after being called to such duty by the head of the police force of such city or town to meet a situation which, in his opinion, cannot be adequately handled by the regular police force and by the reserve police force, if any, of such city or town. Auxiliary police in towns, but not in cities, may be authorized by the appointing authority to exercise the powers conferred by section ten of this act upon members of regular, special, or reserve police forces of said towns.

Section 12. On and after a declaration of an emergency neither the commonwealth nor any political subdivision thereof, nor other agen-



cies, nor any person engaged in any civil defense activities while in good faith complying with or attempting to comply with this act or any other rule or regulation promulgated pursuant to the provisions of this act, shall be civilly liable for the death of or any injury to persons or damage to property as result of such activity except that the individual shall be liable for his negligence. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this act, or under the workmen's compensation law, or under any pension law, or under any other special and general law nor the right of any such person to receive any benefits or compensation under any act of congress.

No city or town shall be liable for any damage sustained to person or property as the result of an authorized blackout.

Section 13. Each political subdivision of the commonwealth is hereby authorized and directed to establish a local organization for civil defense in accordance with the state civil defense plan and program.

Each local organization for civil defense shall have a director, who shall, in the case of a city, be appointed by the mayor, or in a city having the Plan E form of government by the city manager, and in towns shall be appointed by the selectmen, or in towns having a town manager by the manager, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense, subject to the direction and control of such appointing authority. Each local organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of section seven of this act.

In carrying out the provisions of this act, each political subdivision in which any disaster, as described in section one, occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation, without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional

requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary worker, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds.

Section 14. The director of each local organization for civil defense may, in collaboration with other public and private agencies within the commonwealth, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program, and in time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements. The director of each local organization for civil defense may, subject to the approval of the governor, enter into mutual aid arrangements with civil defense agencies or organizations in other states for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted.

Section 15. Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision, for the payment of expenses of its local organization for civil defense.

Whenever the federal government or any agency or officer thereof, or any person, firm or corporation, shall offer to the commonwealth, or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense, the commonwealth, acting through the governor, or such political subdivision, acting through its governing body may accept such offer, and upon acceptance the governor or governing body of such political subdivision may authorize any officer of the commonwealth, or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the commonwealth, or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency, making the offer.

Section 15A. For the purpose of meeting expenditures authorized under section fifteen, a city or town may raise such sums as may be necessary by taxation, or by transfer from

available funds, or may borrow from time to time and may issue bonds or notes therefor which shall bear on their face the words (city or town) Civil Defense Loan, Act of 1950. Each authorized issue shall constitute a separate loan and such loans shall be paid in not more than five years from their dates. Indebtedness incurred under this act shall be in excess of the statutory limit, but shall, except as provided herein, be subject to chapter forty-four of the General Laws, exclusive of the limitation contained in the first paragraph of section seven thereof.

Section 15B. The city auditor, town accountant, or, if there is no such officer, the town treasurer, of every city and town making expenditures under authority of section fifteen or fifteen A of this act shall file quarterly with the director of accounts of the department of corporations and taxation of the commonwealth a report of liabilities incurred and expenditures made under authority of sections fifteen and fifteen A in such form and detail as said director may require.

Section 16. In carrying out the provisions of this act, the governor and the executive officers, or governing bodies of the political subdivisions of the commonwealth, are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the commonwealth, and of the political subdivisions thereof, to the maximum extent practicable; and the officers and personnel of all such departments, offices and agencies of the commonwealth, and of the political subdivisions thereof, to the maximum extent practicable; and the officers and personnel of all such departments, offices and agencies are directed to co-operate with and extend such services and facilities to the governor and to the civil defense organizations of the commonwealth upon request.

The governor may assign to a state agency any activity concerned with disaster preparedness and relief of a nature related to the existing powers and duties of such agency, and it shall thereupon become the duty of such agency to undertake and carry out such activity on behalf of the commonwealth.

Section 17. No organization for civil defense established under the authority of this act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

Section 18. No person shall be employed or associated in any capacity in any civil defense organization established under this act who advocates, or has advocated, a change by force or violence in the constitutional form of the government of the United States, or in this, commonwealth, or the overthrow of any government in the United States by force or violence, or who has been convicted of, or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civil defense shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this commonwealth, which oath shall be substantially as follows:-

"I,....., do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the Commonwealth of Massachusetts against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties on which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this commonwealth by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this commonwealth by force or violence."

Section 19. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provision or application; and to this end the provisions of this act are declared to be severable.

Section 20. It shall be the duty of the members of, and of each and every officer, agent and employee of every political subdivision of this commonwealth and of each member of all other governmental bodies, agencies and authorities of any nature whatsoever fully to co-operate with the governor and the director of civil



defense in all matters affecting civil defense. The governor is authorized to make, amend and rescind orders, rules and regulations pertaining to civil defense, and it shall be unlawful for any municipality or other subdivision or any other governmental agency of this commonwealth to adopt any rule or regulation or to enforce any such rule or regulation that may be at variance with any such order, rule or regulation established by the governor. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the governor, or under his authority. In the event of a dispute on the question of whether or not any such rule or regulation is

at variance with an order, rule or regulation established by the governor under this act, the determination of the governor shall control.

Section 21. For the purpose of carrying out the provisions of this act, the civil defense agency may expend such sums as may hereafter be appropriated therefor.

Section 22. This act or any part hereof shall become inoperative by the adoption of a joint resolution to that effect by the house and senate acting concurrently or in any event on July first, nineteen hundred and fifty-two.

Approved July 20, 1950.

MISCELLANEOUS LAWS

ACTS OF 1951, 10

ESTABLISHMENT OF A COMMISSION OF PUBLIC SAFETY  
EXERCISING THE POWERS OF CERTAIN OTHER BOARDS,  
DEPARTMENTS AND OFFICES

SECTION 1. COMMISSION OF PUBLIC SAFETY, ESTABLISHMENT OF. There shall be established in the town of Plymouth a commission of public safety, hereinafter called the commission, which shall be under the jurisdiction of three unpaid commissioners. The initial members thereof shall be appointed by the board of selectmen to take office on May first next following the date on which this act becomes fully effective by vote of the town as hereinafter provided, one to serve for one year, one for two years and one for three years, and thereafter when the term of any member expires, his successor shall be appointed by said board of selectmen to serve for three years. In all cases, the members shall serve until their successors are appointed and qualified. The members of the commission shall, after each appointment, elect one of their number to act as chairman until the following May first. If a vacancy occurs on the commission, the remaining members, together with the board of selectmen, shall fill such vacancy for the unexpired term. No person shall serve on the commission who holds another elective or appointive office in the town, or who is an employee of the town.

SECTION 2. DUTIES. The commission shall succeed to and be vested with all the rights, powers, duties, facilities, properties and appropriations, now or from time to time invested by general or special law or vote of the town in the following boards, departments and offices in said town, to wit:--board of health, fire department, forest fire department and police department, and such boards, departments and offices shall thereupon be abolished when this act becomes fully effective. The commission shall also have the rights, powers and duties now vested in the board of selectmen with respect to the building inspector, dog officer, sealer of weights and measures and

surveyor of wood and bark, and when this act becomes fully effective as hereinafter provided, the board of selectmen shall cease to have any authority relative thereto. The commission shall also have all the rights, powers and duties, with respect to all inspection services, now or hereafter existing by statute, vote of the town, or otherwise, which have to do with the promotion or protection of public health, safety or morals. No contracts or liabilities in force when this act becomes fully effective shall be affected hereby, but the commission shall be the lawful successor relative to such contracts or liabilities of such boards, departments or offices. It shall be the duty of the aforesaid boards, departments and offices, when this act becomes fully effective, to turn over to the commission all contracts, papers, documents, plans and property in their custody and control, and each shall furnish to the commission such information as may be requested by the commission.

In the event only that an act establishing in said town a commission of public works is passed by the general court in the year nineteen hundred and fifty-one and accepted by the town, the commission of public safety shall have no jurisdiction over the collection and disposal of garbage and the physical care of dumps.

SECTION 3. ACCEPTANCE BY VOTERS. This act shall be submitted for acceptance to the voters of the town at the annual town election in March, nineteen hundred and fifty-one, in the form of the following question which shall be placed on the official ballot to be used for the election of town officers at said election: "Shall an act passed by the general court in the year nineteen hundred and fifty-one, entitled "An Act authorizing the Town of Plymouth to estab-



(Acceptance By Voters---con't)

lish a Commission of Public Safety exercising the Powers of certain other Boards, Departments and Offices' be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, this act shall become fully effective on May first, nineteen hundred and fifty-one. If a majority of the votes so cast is not in the affirmative, said question shall be placed on the official ballot to be used for the election of town officers at the annual town election in the year nineteen hundred and fifty-two, and if the act is not so accepted in the year nineteen hundred and fifty-two, said question shall be placed on said ballot at the annual town election in the year nineteen hundred and fifty-three. If a majority of the votes cast in answer to said question in either of said years nineteen hundred and fifty-two or nineteen hundred and fifty-three is in the affirmative, this act shall become fully effective on May first following said vote. If this act is not accepted as provided herein, it shall become null and void.

SECTION 4. VOTE TO RESCIND. At any time after the expiration of five years from the date on which this act is accepted by the town, ten per cent of the qualified voters of the town may petition the selectmen that the question of rescinding such acceptance be submitted to the voters at the next biennial state election. Upon the filing of such petition, the

following question shall thereupon be placed on the official ballot to be used at said election in said town: "Shall the town of Plymouth rescind the prior acceptance of an act passed by the general court in the year nineteen hundred and fifty-one entitled 'An Act authorizing the Town of Plymouth to establish a Commission of Public Safety exercising the Powers of certain other Boards, Departments and Offices?'" If a majority of the votes cast in answer to said question is in the affirmative, then at the next annual town election held after said vote to rescind, the town shall elect such boards, commissions, committees and officers as are necessary to exercise and perform the powers, rights and duties transferred to the commission of public safety by this act. Such action shall not affect any contract or liability then created or existing. All general laws respecting town administration and town officers and any special laws relative to said town, the operation of which has been suspended or superseded by the acceptance of this act, shall then be in full force and effect. Any by-law inconsistent with such special or general laws shall be revoked thereby. Any subsequent vote to rescind the acceptance of this act shall not be taken more often than once in two years.

## MISCELLANEOUS LAWS

ACTS OF 1951, 511

### ESTABLISHING THE WEATHER AMENDMENT BOARD AND DEFINING ITS POWERS AND DUTIES.

Section 1. Section 17 of chapter 6 of the General Laws, as most recently amended by section 1 of chapter 479 of the acts of 1950, is hereby further amended by inserting after the word "board" the second time it occurs in line 15, as appearing in section 1 of chapter 637 of the acts of 1948, the words:—, weather amendment board,—so as to read as follows:— SSection 17. The armory commission, the art commission, the commission on administration and finance, the commissioner of veterans' services, the commissioners on uniform state laws, the public bequest commission, the state ballot law commission, the board of trustees of the Soldiers' Home in Massachusetts, the board of trustees of the Soldiers' Home in Holyoke, the milk regulation board, the alcoholic beverages control commission, the state planning board, the state housing board, the trustees of the state library, the state racing commission, the Greylock reservation commission, the Port of Boston Authority, the Massachusetts public building commission, the Massachusetts commission against discrimination, the outdoor advertising authority, the commission on alcoholism, the state airport management board, the youth service board, weather amendment board and the Massachusetts aeronautics commission shall serve under the governor and council, and shall be subject to such supervision as the governor and council deem necessary and proper.

Section 2. Said chapter 6 is hereby further amended by adding at the end, under the caption WEATHER AMENDMENT BOARD, the following section:— Section 72. There shall be a board, to be known

as the weather amendment board, hereinafter in this section called the board, to consist of the commissioner of agriculture, the commissioner of public health and the commissioner of conservation, or their respective representatives. It shall be the function and duty of the board to authorize and control the alteration or attempted alteration of natural weather phenomena by human or artificial means as hereinafter provided, and such alteration or attempted alteration is hereby declared to be a public function. No person shall use chemical, mechanical or other artificial measures designed to increase or decrease rainfall or snowfall in the commonwealth or over any part thereof without first obtaining from the board a certificate of authority for the purpose. Such a certificate of authority shall be granted only after a public hearing by the board, notice of which shall have been given by newspaper publication not less than forty-eight hours in advance and on at least two different days in the area in or over which such artificial measures are planned to be used. Such certificate shall be limited as to time, duration and location, and shall contain such other conditions and safeguards of the public interest as the board shall specify. The board shall keep a journal of its proceedings which shall be open to public inspection and shall provide for the systematic assembly of pertinent scientific data recording the phenomena which appeared to be in any way connected with the exercise of its functions or to result therefrom. Whoever violates any of the provisions of this section shall be punished by a fine of not more than one thousand dollars. Nothing in this section shall be construed to prevent the use of apparatus to heat or circulate the air by artificial means for the purpose of preventing frost damage to crops.

Approved July 17, 1951.



## MISCELLANEOUS LAWS

ACTS OF 1952, '73.

### ORGANIZATION OF THE BOARD OF REGISTRATION IN CHIROPODY (PODIATRY)

Section 12A of chapter 13 of the General Laws, inserted by section 1 of chapter 425 of the acts of 1937, is hereby amended by striking out the third sentence, - so as to read as follows:- Section 12A. There shall be a board of registration in chiropody (podiatry), to be appointed by the governor, with the advice and consent of the council, in this and the two following section called the board, consisting of five members, citizens of the commonwealth,

four of whom shall have had at least seven years of practice in chiropody (podiatry) in this commonwealth. The fifth member shall be a registered physician who shall have had at least seven years of practice in medicine in this commonwealth. No member of the board shall be connected in any way with a school of chiropody (podiatry) or be financially interested in any manufacturing, wholesale or retail business, pertaining to chiropody (podiatry) in any form whatsoever. As the term of a member expires, his successor shall be appointed by the governor, with like advice and consent, to serve for five years.

Approved February 25, 1952.

The Commonwealth of Massachusetts

# RULES AND REGULATIONS

OF THE

DEPARTMENT OF PUBLIC HEALTH

*(Chap. 30, Sec. 37 G. L. Ter. Ed.)*



1948





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THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH

RULES AND REGULATIONS  
RELATIVE TO THE DISTRIBUTION OF BIOLOGIC PRODUCTS

(To replace page 201.)

The Department of Public Health, acting under the authority of Section 5, Chapter III of the General Laws appearing in the Tercentenary Edition thereof, as amended by Section 5A added by Chapter 612 of the Acts of 1941, further amended by Chapter 388 of the Acts of 1941, and further amended by Chapter 615 of the Acts of 1945, hereby prescribes and establishes the following rules and regulations to govern the distribution of biologicals.

1. Subjects to the provisions of these regulations, boards of health in cities and towns are the responsible agencies in their respective communities for procurement, proper storage and issue of biologic products used in the control of diseases dangerous to the public health.

2. Biologic distribution stations shall be established by local boards of health in cities and towns of 10,000 population or over.

3. Cities and towns of less than 10,000 population may establish biologic distribution stations, when the need has been established, subject to the approval of the Department.

4. A board of health not equipped to act as a distribution station may designate a hospital or drug store as its agent, but may not designate more than one agency.

5. A board of health may maintain more than one distribution station but products will be delivered by the Department to only one agency in each town or city, except when needed for emergency use.

6. Distribution stations must be under the charge of a qualified person, familiar with the principles of care and handling of biologic products, and must supply and use adequate refrigerating facilities. They must observe such special requirements for the storage, handling or issue of products, as may from time to time be communicated to them by the Department or its agents.

7. The location, responsible personnel, equipment and operation of all distribution stations are subjected to the approval of the Department. Biologic stations may be discontinued by the Department when the need no longer exists and/or when the products are being

improperly stored, handled, or distributed.

8. District health officers or their authorized representatives will inspect biologic products on hand at distribution stations at least once a year, and their findings will be reported to the Superintendent, Institute of Laboratories.

9. The delivery of diphtheria and scarlet fever antitoxins, smallpox vaccine, typhoid-paratyphoid vaccine, Schick outfits, diphtheria toxoid, tuberculin, immune serum globulin, silver nitrate solution, and such other products as the Superintendent, Institute of Laboratories may designate, is limited to boards of health, except as noted below.

10. Biologic products as specified in paragraph 9 may be delivered directly to physicians or hospitals located in cities or towns of less than 10,000 population which do not maintain a biologic station

11. Distribution of citrated whole blood, normal human plasma, or their fractions (except immune serum globulin) is limited to physicians, hospitals or their qualified agents. These products must be obtained by calling at the laboratory except when their shipment is authorized by the Superintendent, Institute of Laboratories.

12. Physicians, hospitals, boards of health, and other responsible agencies, or their qualified agents, may obtain all biologic products by calling at the laboratory, subject to the provisions noted below.

13. Any product, or any part of a specific request for products, may where adequate cause exists, be withheld from delivery or distribution, upon the decision of the Superintendent, Institute of Laboratories. The Superintendent may, for valid reasons, authorize exceptions to any of the regulations stated below.

Prescribed and established by the  
Department of Public Health  
at the meeting of its Public Health  
Council held on 4/9/35, 5/14/40,  
1/11/49 and December 15, 1953





( To replace page 202. )

THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH  
RULES AND REGULATIONS  
RELATIVE TO THE SALE OF SURPLUS BIOLOGIC PRODUCTS

The Department of Public Health, acting under the authority of Section 5, Chapter III of the General Laws appearing in the Tercenary Edition thereof, as amended by Section 5A added by Chapter 612, 1941, further amended by Chapter 388 of 1941 and further amended by Chapter 615 of 1945, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations to govern the sale of biologicals.

1. As only "excess" products may be sold under statute, the decision as to what products shall be considered "excess" stock shall be made in all instances by the Department.

2. Charges for such products shall be determined from time to time by the Department after a study by the fiscal office and the Institute of Laboratories.

3. No one connected with the Institute of Laboratories shall be permitted to sell, exchange, or barter any biologic products belong-

ing to the Commonwealth, except in accordance with the rules and regulations herein provided and the approval of the Superintendent of the Institute of Laboratories.

4. Sales of products are to be made only when these products are to be used outside the Commonwealth of Massachusetts, and under no circumstances shall any charge be made for products intended for use within the Commonwealth.

5. In the case of products sold no credit or rebate shall be issued for any products not used before the expiration date stamped on the label or for empty containers returned.

Prescribed and established  
by the Department of Public Health  
at the meeting of its  
Public Health Council  
held on 4/12/49, and  
December 15, 1953.





THE COMMONWEALTH OF MASSACHUSETTS

Department of Public Health

RULES & REGULATIONS  
RELATIVE TO THE USE OF BLOOD OR  
OTHER TISSUES FOR  
PURPOSES OF TRANSFUSION

(To be inserted in place of pp. - 203 - 4 - 5)

The Department of Public Health, acting under the authority contained in Section 54, Chapter III of the General Laws, Tercentenary Edition, as amended by Chapter 16 of the Acts of 1943, and Section 72, Chapter III of the General Laws, Tercentenary Edition, as amended by Chapter 618 of the Acts of 1948, and every act thereto enabling, hereby prescribed and establishes the following rules and regulations relative to the use of blood or other tissues for the purpose of transfusion.

I. DEFINITIONS: The following terms as used in these regulations, unless a different meaning is specifically prescribed or required, shall have the following meanings:

A. "Hospital" or "sanatorium" shall mean any institution however named, either conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution.

B. "Dispensary" or "clinic" shall mean any place or establishment not conducted for profit, where medical, surgical, or dental advice or treatment, medicine or use of medical or dental apparatus is furnished to persons not residing therein or any place or establishment, whether conducted for charitable purposes or for profit, advertised, announced, conducted or maintained under the name "dispensary" or "clinic" or other designation of like import, except that it shall not include a clinic conducted by a hospital which is licensed as an integral part of such hospital.

C. "Department" shall mean the Massachusetts Department of Public Health.

D. "Blood Bank" shall be an establishment for the procuring, classifying, storing or dispensing of preserved human blood for transfusion purposes.

E. All adjectives and adverbs such as acceptable, adequate, approved, clean, good, proper, qualified, reasonable, reliable, reputable, safe, sanitary and/or suitable, as used in these rules and regulations, to qualify a person, process, technique, equipment or thing shall be as determined by the Department.

II. LICENSING:

A. Blood banks shall be licensed as a part of a hospital (see Chapter 431, Acts of 1950) or clinic subject to the licensing regulations promulgated by the Department. Blood banks in hospitals or clinics shall be inspected at the same time and by the same authority inspecting hospitals and clinics in the Commonwealth, and at such other times as inspection is considered necessary by the inspecting authority. The clause in the hospital or clinic license enabling the hospital or clinic to operate a blood bank shall be revoked or suspended independently of the general license to operate a hospital or clinic, but shall not remain in force after the general license has been lost.



### III. EXAMINATION OF DONOR

A. Only those persons may serve as donors of blood for use for human transfusion or preparation of derivatives thereof who on the day of bleeding shall be determined to be free of the following conditions, as far as can be ascertained by history:

1. Acute or chronic infection of transmissible nature.
2. Syphilis past or present.
3. Malarial infection at any time, or residence in an endemic area within five years, but without manifestation of the disease. (The history of malarial fever or known exposure to malaria does not exclude the use of the blood for preparation of blood fractions or plasma).
4. Known or suspected infections hepatitis (catarrhal) jaundice or homologous serum jaundice) within the past 12 months, or exposure to a case now present in the donor's household, or otherwise in close contact. Blood from donors who have recovered from jaundice a year or more prior to phlebotomy and who meet the other physical requirements may be used for transfusion.
5. Any infectious skin disease, furunculosis or pyoderma.
6. Any active respiratory allergies such as asthma, hay fever, active urticaria or drug allergies.
7. Rh sensitization.
8. Pregnancy, or pregnancy within the past six months.
9. Tooth extraction or other dental surgery within 72 hours.

B. Donors shall meet the following minimum physical requirements:

1. Appear to be in good health.
2. Skin, mouth and conjunctive appear of normal color, free of lesions and not icteric.
3. Have an oral temperature not over  $99.6^{\circ}$  F.
4. Have a pulse of not over 120 or under 48 beats per minute.
5. Have a hemoglobin of at least 12.3 grams per 100 ml. of blood. Donors who have a blood specific gravity of not less than 1.053 by the copper sulfate method shall be acceptable.
6. Donors 60 years of age and over shall give blood only with the written consent of a physician. Minors under 21 years of age shall have proper written consent of parent or guardian before a blood donation can be made. Minors under 21 years of age but who are either married or on active duty in the armed forces shall be permitted to donate blood without consent of parent or guardian.

C. Donors shall have a blood pressure as specified below:

1. A donor shall not be acceptable unless his systolic pressure is between 100 mm. of mercury and 200 mm. of mercury.
2. Diastolic pressure readings of over 100 mm. of mercury shall be rechecked and any check reading over 110 mm. of mercury shall disqualify the prospective donor. The intervening readings 100 to 110 mm. of mercury shall be approved in each case only at the discretion of the physician-in-charge.

#### IV. COLLECTION OF THE BLOOD:

A. The method employed for the removal of the blood from the donor shall conform to the accepted standards of aseptic surgery and shall utilize a closed or vented system.

B. A closed or vented system shall be a system which permits the transfer of material without contamination through exposure to external conditions. If air is admitted it shall be through a filtered vent without rise of contamination.

C. The drawing of blood from the donor shall be performed in a suitable room having suitable space and equipment.

D. The blood shall be drawn by qualified personnel under the supervision of a qualified doctor of medicine or under the supervision of a medical scientist acceptable to the Department.

E. Donor identification

A system which carries through from donor to recipient shall be used to identify the blood. A suitable label or tie tag shall be made out for the donor at the time of completing the donor's history record. The label and history record must carry the same identification number. This label or tie tag shall accompany the donor to the bleeding room and be applied to the bleeding bottle with check of donor's identity with history record and tag or label.

F. Protection of Donor.

1. The method of skin preparation shall be adequate to protect the donor from infection due to blood collection or injections incidental to blood collection.

2. Apparatus or instruments such as lancets, needles, syringes, or other blood letting devices capable of transmitting infection to the donor shall be heat sterilized prior to use for each donor. Heat sterilization shall be by autoclaving for 15 minutes at

121.5°C. (250°F.) (15 lbs. pressure), by dry heat for two hours at 170°C. (335°F) or by boiling in water for 15 minutes at 100°C. (212°F.)

G. Immediate Handling of Blood.

1. During the bleeding the anticoagulant and the entering blood shall be quickly and thoroughly mixed by adequate agitation. Violent shaking must be avoided.

2. Immediately after bleeding the blood shall be kept at a temperature of 4° to 10°C. (39° to 50°F.) -- the average must be 4° to 6°C. (39° to 43°F.) (freezing must be avoided at all times). If transportation of the blood is necessary, it shall be transported in shipping cases sufficiently refrigerated to hold the blood at 4° to 10° C. (39° to 50° F.). If the blood has not been cooled before shipping, the refrigerated case must be capable of cooling and holding the blood at 4° to 10°C. (39° to 50°F.) during transit. Dry ice should not be used for refrigeration. Immediately on arrival at the place of storage, the blood shall be stored and maintained within the temperature limits specified in the first sentence of this paragraph.

3. A pilot sample for laboratory test shall be provided and shall consist of one properly identified pilot tube attached to the bottle before, during, or immediately after bleeding. This tube and any additional pilot tubes shall be identified in the same manner as the bottles of blood prior to collection of the blood and all samples shall be collected by the individual collecting the blood.



#### H. Preparation of the Blood for Use.

1. The serological test: A serological test for syphilis shall be made on a specimen of blood taken from the donor at the time of bleeding, or within 5 days prior to the bleeding, and tested by a laboratory accredited by the Department, and the blood shall not be used for transfusion unless the result of the test is negative or the blood has been stored for 96 hours at the required storage temperature.
2. If the potential donor cannot establish freedom from recently acquired serologically negative syphilis to the satisfaction of the physician-in-charge, the matter shall be resolved by one of the three following methods:
  - a. Rejection of the donor.
  - b. Holding the blood for 96 hours at proper temperature.
  - c. Diverting of the blood to other uses.

#### V. BLOOD GROUPING AND RH TYPING.

- A. No fresh or preserved whole blood or red cells shall be administered to a recipient unless the international blood group (A, B, O group) and Rh type (D Rh positive or D Rh negative) of both donor and recipient have been determined by methods currently acceptable to the Department of Public Health. This testing shall be done on the pilot tube sample and the findings must be made a part of the laboratory records and of the blood bottle label. Each blood shall be tested independently for its group by two workers or rechecked by the same worker using either or both of the two following methods:
  1. A single grouping of the donor's red cells against satisfactory Anti-A and Anti-B grouping sera, followed by a second grouping test which uses the donor's serum against fresh A<sub>1</sub> and B cells. If A<sub>1</sub> cells not available, a pool of 5 A cell samples from A bloods taken at random shall be permitted.

2. Determine the grouping of the donor's cells independently against two satisfactory sets of Anti-A and Anti-B grouping sera.
  3. Only Anti-A and Anti-B Blood Grouping Serums acceptable to the Massachusetts Department of Health shall be used.
  4. All blood shall be cross-matched with that of the recipient before transfusion by a method capable of detecting Rh incompatibility.
- B. Rh typing shall be determined for each bottle of blood using an Anti-RHO (Anti-D) typing serum acceptable to the Department. In each negative result, the test must be repeated using another serum.
  - C. Previous records of a donor's ABO group and Rh type shall not be relied on for identification of the blood as the record applies to the blood in a particular bottle rather than to a donor.
  - D. Use of Group O blood for recipients of groups other than O (as "universal donor" blood).
    1. Whenever Group O blood is used in the transfusion of other than Group O recipients, it shall be of low titer or be modified by the addition of A and B group-specific substances to each bleeding to neutralize the isoagglutins. The amounts added must be stated on the label and in the laboratory records. When such substances are used they shall be added just prior to the transfusion to minimize the risk of possible contamination.
    2. If group O blood is to be used for transfusing persons of groups other than O, the Anti-A or Anti-B titre of the serum must be less than 1:100 if A and B group specific substances are not added, or 80% or more of the plasma must be removed prior to transfusion.

3. Only in extreme emergencies shall group O blood, of low titre, or modified as described above be administered without cross-matching.

E. Matching of Rh Type: As a general rule, Rh positive blood shall be administered to Rh positive recipients and Rh negative blood to Rh negative recipients.

## VI. PLASMA AND SERUM

A. Plasma or serum for transfusion purposes shall be collected by a closed or vented method under strictly sterile conditions acceptable to the Department and shall be stored, without antibacterial preservative, in individual units prepared from large or small pools, as follows.

1. Plasma or serum shall be separated from cells or clot by methods acceptable to the Department.

### 2. Pooling methods:

a. A homologous blood group pool shall be derived from 1-3 donations. The homologous group plasma or serum pooled in this manner shall be administered to compatible recipients, (Group A plasma to Group A recipient) etc. unless A and 3 specific substances are added or the titres of Anti-A and Anti-B are less than 1:100.

b. Units of plasma or serum derived from heterologous blood groups by pooling 1-3 donations, regardless of type, shall be neutralized with A & B group specific substances just prior to administration, unless given to compatible recipients or unless the Anti-A and Anti-B titres are less than 1:100.

c. Pools of more than 3 donations shall be irradiated by an acceptable method determined by the Department and available from the Institute of Laboratories, 375 South Street Jamaica Plain.

3. Sterility testing: The sterility testing of plasma shall be determined in accordance with procedures established by the Department and available from the Institute of Laboratories, 375 South Street, Jamaica Plain.

B. Storage - The product shall be stored as follows:

1. Liquid plasma: at 15° to 30°C. (59° to 86°F.)
2. Frozen plasma: at minus 13°C (0°F.) or lower.
3. Dried plasma: at not over 40°C. (104°F.)

### C. Expiration Date

1. Liquid plasma: 2 years, including date of bleeding the donor.
2. Frozen plasma: 5 years, including date of bleeding the donor.
3. Dried plasma: 5 years, including date of bleeding the donor.

D. If A.C.D. solution has been used as the preservative, the plasma shall be separated at any time up to and including 26 days from the date of bleeding the donor.

## VII. PRESERVATION OF ERYTHROCYTES:

### A. Preservative Solution

1. If the blood is to be used within 18 hours after bleeding the use of a properly sterilized citrate solution as an anticoagulant is permitted. The solution shall have the following formula:

Sodium citrate 40 gms  
Water for injection (USP) to  
make 1000 ml

The sodium citrate used shall be of C.P. or U.S.P. grade.

This citrate solution shall be used in the ratio of 10 ml for each 100 ml of blood.



2. For the storage of blood longer than 18 hours and up to and including 21 days, it shall be drawn into an acid-citrate-dextrose (ACD) preservative solution. The formula for the ACD solution shall be as furnished by manufacturers of prepared bottles, acceptable to the Department, or if made by the hospital it shall be as follows:

	SOLUTION A	SOLUTION B
TRISODIUM CITRATE ( $\text{Na}_3\text{C}_6\text{H}_5\text{O}_7 \cdot 2\text{H}_2\text{O}$ )	2.20 GMS.	1.32 GMS.
CITRIC ACID ( $\text{H}_3\text{C}_6\text{H}_5\text{O}_7 \cdot \text{H}_2\text{O}$ )	0.80 GMS.	0.48 GMS.
DEXTROSE, ANHYDROUS ( $\text{C}_6\text{H}_{12}\text{O}_6$ )	2.25 GMS.	
OR		
DEXTROSE, U. S. P. ( $\text{C}_6\text{H}_{12}\text{O}_6 \cdot \text{H}_2\text{O}$ )	2.45 GMS.	1.47 GMS.
WATER FOR INJECTION (USP) TO MAKE	100.00 ML.	100.00 ML.
pH	5.0	5.0

C.P. GRADE OR U.S.P. GRADE CHEMICALS SHALL BE USED.

THE AMOUNT OF SOLUTION A TO BE USED SHALL BE 10 TO 15 ML. FOR EACH 100 ML OF BLOOD AND FOR SOLUTION B THE AMOUNT USED SHALL BE 25 ML FOR EACH 100 ML OF BLOOD.

#### B. Dating period of whole blood

Whole blood preserved in A.C.D. solution may be used up to and including 21 days after bleeding, provided it shall have been kept continuously in the range of  $4^{\circ}\text{--}10^{\circ}\text{C}$  ( $39.2^{\circ}\text{--}50^{\circ}\text{F}$ ) with an average of  $4^{\circ}\text{--}6^{\circ}\text{C}$  ( $39^{\circ}$  to  $43^{\circ}\text{F}$ ) from immediately after bleeding to the time of use, and provided that the appearance of both the plasma and the cells at the time of use are within normal limits. Storage must be under the supervision of a qualified physician or a qualified medical scientist acceptable to the Department.

The red cells remaining after sedimentation or centrifugation if centrifuged within the first 48 hours after the blood has been drawn, are satisfactory for use up to and including 10 days after bleeding, providing the plasma shall have been aspirated under sterile precautions and that the red cells are dispensed from the same container in which the whole blood was drawn. An exception is permitted in that hospitals having adequate skill and supervision and sterile equipment may transfer the cells to their infusion equipment immediately before administration. An acceptable diluent for the transfusion of all cells from a 500 cc donation shall be 200 cc of a sterile isotonic solution of sodium chloride.

Sedimented red cells separated from the plasma after 48 hours but within 10 days of the date of bleeding shall be administered within 24 hours after drawing off the plasma. Centrifugation shall not be done on blood more than 48 hours old if the red cells are to be used for transfusion as it may cause hemolysis.

#### VIII. FILTRATION:

Preserved whole blood, red cells or plasma shall not be administered to a recipient except after passage through a filter not less than 100 mesh per square inch immediately prior to or during the transfusion.

#### IX. ASEPTIC TECHNIQUE IN HANDLING OF BLOOD:

Preserved whole blood shall not be transferred from its original container into another container, nor shall a bottle of blood be entered for any other purpose, unless blood so handled is given within 3 hours. Exceptions to this regulation are permissible under the following circumstances; in hospitals where the blood bank has full time technical supervision by professional personnel, and where it may be customary to recheck the blood type by entering the bottle, such entry is permissible at any time during the storage of the blood, provided the following precautions are observed:

- Strict aseptic precautions using separate entering equipment for each bottle.
- Periodic visual inspection of the blood with particular reference to the possibility of contamination as indicated by the gross appearance of the cells and plasma.
- Periodic sterility tests on random samples, allowing for detection of aerobic contaminants with duplicate samples incubated at  $35^{\circ}$  to  $37^{\circ}\text{C}$  ( $95^{\circ}$  to  $98.6^{\circ}\text{F}$ ;) and  $20^{\circ}$  to  $25^{\circ}\text{C}$  ( $66^{\circ}$  to  $77^{\circ}\text{F}$ ).

#### X. RECORDS AND IDENTIFICATION:

A. Records shall be kept as follows;

- By the individual or agency responsible for drawing or processing of the blood:

In addition to a medical history as outlined in Section I, Paragraphs A and B above, the record shall include the following: Name, Age, Sex, Address,) of donor

International blood group and  
RH type.

Kind of serologic test performed  
and result of test with date.

Date of withdrawal of blood.

Name of person performing the  
bleeding.

2. By the physician responsible for administering the whole blood, redcells, plasma, serum, albumin, or blood substitute.

In addition to the record required in Section X, Paragraph A. 1, a separate record shall include the following:

Name        )  
Age         ) of recipient  
Sex         )  
Address    )  
Diagnosis)

Product, source and lot number,  
or other identifying designation  
of the material administered.

Date administered

Amount administered

International blood group and Rh  
type of recipient and result of  
cross-matching with donor's  
blood if given whole blood, red  
cells, or homologous plasma.  
Reaction, if any, specify type  
of reaction.

3. An identification system shall be established so that when blood for transfusion is cross-matched with that of a prospective recipient the blood and the recipient's blood samples are properly identified. This shall be done in such a manner that it is certain that the blood which is injected is that which was cross-matched for the recipient.

#### B. Labeling of the Blood

Each bottle of blood shall be labeled at the time of bleeding using a tag firmly secured or a pasted label firmly attached. This tag or label when completed must meet the following minimum requirements:

1. Name of contents: Citrated (or ACD) Whole Blood (Human)
2. Approximate number of ml. of blood and of anticoagulant solution.
3. Donor's name or number by which donor can be identified.
4. Name of recipient.
5. Name or initials of person performing cross-matching and the date.
6. Blood group and Rh factor of the blood contained in the bottle.

#### XI. ADMINISTRATION OF THE BLOOD:

- A. When the blood is to be administered to the patient, it must again be identified as the blood which was determined to be safe for that recipient.
- B. The following precautions must be observed:
  1. Check on identity of patient and blood he is to receive.
  2. Thoroughly mix cells and plasma by gentle rotation of the bottle.
  3. Use sterile pyrogen free intravenous equipment with a filter in the line, if not otherwise filtered immediately prior to transfusion.
  4. Do not add any medication to the bottle of blood prior to administration.
  5. *Do not warm* the blood before administration.
- C. In case of an untoward reaction:
  1. Discontinue the transfusion.
  2. Return the blood bottle and contents to the blood bank laboratory for investigation.

#### XII. EMERGENCIES:

These regulations shall not preclude the reasonable omission of any of the above requirements in:

- A. An emergency indicated in the records as such.
- B. An experimental study indicated in the records as such.



**XIII EFFECTIVE DATE:**

These regulations shall take effect upon filing with the Secretary of the Commonwealth. Blood banks not yet approved as a part of a hospital operation, by the

Department of Public Health, may continue in operation until inspected, provided they apply, in writing, for approval upon receipt of these regulations.

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other changes in the clinic, during the war emergency.

The local cancer clinic committee which petitions for a state-aided clinic shall designate whether it desires to function under Plans A, C, or D. These plans have been promulgated in order to give each individual clinic the maximum amount of local autonomy consistent with the Constitution of Massachusetts, the Cancer Act of 1926 as amended by the Act of 1943, and the policies of the Department of Public Health.

**Plan A.** The Department will pay for services rendered by the clinic for "such persons as may be in whole or in part unable to support or care for themselves." Each clinic shall determine which individuals are "in whole or in part unable to support or care for themselves." Clinics in hospitals which do not have a prescribed form for determining medical indigency and clinics in those hospitals whose method is not approved by the Department shall adopt the Department method. This consists of a personal interview with the individual by the admitting office. Due care in selection of the admitting officer is of utmost importance. All individuals coming to the clinic who do not fall into the class of "such persons as may be in whole or in part unable to support or care for themselves" will reimburse the clinic for services. The standard fee shall be \$10 which will include all routine and subsequent follow-up service. *This does not include the services of the physicians of the clinic staff which are gratuitous nor certain hospital services such as X-ray examinations which must be paid by individuals in this class at established hospital rates.* Individuals unable to pay \$10. but able to pay some fraction of that amount may do so.

**Plan C.** This plan is somewhat similar to Plan A. All patients seeking consultation service are examined at the clinic and receive advice irrespective of their financial status but the State is only billed for "such persons as may be in whole or in part unable to support or care for themselves" and no fee is collected from any individual.

**Plan D.** Under this plan a clinic may be conducted with other arrangements for payments and/or for management, provided the arrangement is constitutional, conforms to the legislative mandate, contains local autonomy, is not contrary to public health practice, and conforms to the American College of Surgeons' plan for making group diagnosis available to all.

In order to make the payments equitable for all clinics differing in size and services rendered the following procedure for payments has been adopted:

Each clinic shall submit monthly a list of services rendered the preceding month. Unit values have been determined for the ordinary services rendered by a cancer clinic. These are termed service units. The service units are totaled for each clinic by the Department and then converted into payment units. The payment units of all clinics, with the exception of those which, because of balances due to donations of clubs, individuals, Community Chest, legacies and other sources, do not need current payments, are totaled. The money available for the clinics for a given month is divided by this figure to determine the monetary value of a payment unit. This figure multiplied by the number of payment units for a given clinic minus the money received from patients who pay all or part of the \$10.00 fee furnishes the amount of clinic payment to be made by the State. In this way the State pays for none of the services to individuals who can pay for themselves and only for a part of the services of "such persons who may be in whole or in part unable to support or care for themselves", as both physicians and hospitals contribute materially to all groups.

After the Department has determined the value of the payment unit, an invoice shall be sent to the clinic for signature. On both the monthly report and the invoice, the following certification under penalty of perjury shall be made: "The clinic is billing the State only for the services rendered, to the best of our knowledge and belief, 'to such persons who may be in whole or in part unable to care for themselves.'"

Itemized accounting of clinic expenditures is required under Plan B, might be required under Plan D, but would not be required under Plans A and C in which the relationship between the Department and the clinic is that of purchaser and seller of services. The Department, however, suggests that if any clinic operating under Plan A or Plan C accumulates a balance due to donations of clubs, individuals, Community Chest, legacies and other sources, such monies be expended in improving the clinic, furthering cancer education or some other form of cancer control.

If major changes in the management of a clinic are contemplated, the approval of the Department of Public Health should be obtained.

The Department of Public Health reserves the right to have its representative make regular inspections of the clinics and make suggestions for improved service. It may cease purchasing service from a clinic which fails in its obligations to the public.

When a clinic ceases to sell service to the State, either by a vote of the local group which originally sponsored it, or by a vote of the Department of Public Health, it is the responsibility of the Department to follow the cancer patients previously seen at the clinic, until death. Arrangements must be made either with other clinics, district health units, voluntary agencies or the Advisory Cancer Clinic Committee, to see that this is done.



SERVICE UNITS		PAYMENT UNITS	
	<i>Value in Units</i>	<i>Service Units</i>	<i>Payment Units</i>
New case	15	Not over 40	30
Return case	10	Over 40 but not over 80	50
Special consultation (Teaching Clinic)	15	Over 80 but not over 120	70
		Over 120 but not over 160	80
		Over 160 but not over 200	90
<i>Physical Examination</i>	45	Over 200 but not over 240	100
3 points for each of the following:		Over 240 but not over 280	110
eyes, ears, nose, throat, larynx, skin,		Over 280 but not over 320	120
extremities, lymph nodes, heart,		Over 320 but not over 360	130
lungs, abdomen, pelvis, rectum,		Over 360 but not over 400	140
blood pressure, urine, breast.		Over 400 but not over 440	150
		Over 440 but not over 480	160
		Over 480 but not over 520	170
<i>X-Rays</i>		Over 520 but not over 560	180
G. I. series	25	Over 560 but not over 600	190
Intravenous pyelogram	15	Over 600 but not over 640	200
Other X-rays	10	Over 640 but not over 680	210
		Over 680 but not over 720	220
		Over 720 but not over 760	230
<i>Blood Examination</i>		Over 760 but not over 800	240
Routine Examination (Red and White Count	5	Over 800 but not over 840	250
Hgb. smear)		Over 840 but not over 880	260
Blood Chemistry (calcium, phosphorous,	10	Over 880 but not over 920	270
serum, protein, etc.)		Over 920 but not over 960	280
Blood Wassermann	2	Over 960 but not over 1000	290
		Over 1000 but not over 1500	300
		Over 1500 but not over 2000	350
<i>Special Examinations</i>		Over 2000 but not over 2500	400
Sigmoidoscopy	5	Over 2500 but not over 3000	450
Cystoscopy	10	Over 3000	500
Laryngoscopy	5	Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 8/10/26; Amended 6/14/27, 3/13/28, 1/15/35, 9/14/43, 10/5/43, 11/11/43, 12/14/43, 4/11/44, 1/14/47.	
Ophthalmoscopic	5		
Biopsy	5		
Cytologic Test	5		
Basal metabolism	10		
Kidney function	5		
Guaiac for occult blood	2		
Analysis gastric contents	5		
<i>Social Service</i>		At the meeting of the Public Health Council held on January 14, 1947, the revised Service Unit Values contained in the Cancer Clinic Regulations of the Department were approved and adopted under the provisions of Chapter 391 of the Acts of 1926 and General Laws Chapter 111, Section 57A, as inserted by Chapter 436 of the Acts of 1943.	
House Visit	10		
Telephone and correspondence	2		
Transportation Patients	10		
Office Visit	3		



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO LIST OF DISEASES DANGEROUS TO PUBLIC HEALTH.

The Department of Public Health, acting under the authority of Section 6, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 129 of the Acts of 1948, and every other act thereto enabling, hereby prescribes and establishes the following list of diseases declared to be dangerous to the Public Health and Reportable:

#### I. REPORTABLE TO LOCAL BOARD OF HEALTH

Actinomycosis	Malaria
Anthrax	Measles
Asiatic Cholera	Meningitis
Chicken Pox	a. Meningococcal
Cholecystitis of Typhoid	b. Other:
Origin	Pfeiffer Bacillus
Diphtheria	Pneumococcal
Dog Bite	Streptococcal, etc.
Dysentery:	Mumps
a. Amebic	Ophthalmia Neonatorum
b. Bacillary	Plague
Encephalitis, Infectious	Poliomyelitis:
German Measles	a. Paralytic
Glanders	b. Nonparalytic
Hepatitis, Infectious	Psittacosis
Leprosy	Rabies
Lymphocytic Chorio-	Rocky Mountain Spotted
meningitis	Fever

Salmonellosis	Tularemia
(Paratyphoid Infec-	Typhoid Fever
tions)	Typhus Fever
Scarlet Fever	Undulant Fever
Septic Sore Throat	Weil's Disease
Smallpox	(Leptospira ictero-
Tetanus	hemorrhagiae)
Trachoma	Whooping Cough
Trichinosis	Yellow Fever
Tuberculosis (all forms)	

#### II. REPORTABLE DIRECTLY TO STATE DEPARTMENT OF PUBLIC HEALTH

Chancroid	Lymphogranuloma
Gonorrhea	Venereum
Granuloma Inguinale	Syphilis

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held in 1907.

Amended: 12/15/14, 12/14/15, 2/16/17, 4/3/17, 12/18/17, 10/29/18, 11/18/20, 12/8/21, 9/18/28, 6/11/35, 12/10/35, 11/10/36, 2/14/39, 5/1/41, 5/12/42, 4/14/43, 10/5/43, 12/14/43, 1/11/44, 11/3/48.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO DISEASES DECLARED TO BE DANGEROUS TO THE PUBLIC HEALTH AND REPORTABLE.

The Department of Public Health acting under the Authority of Section 6, Chapter III, of the General Laws appearing in the Tercentenary Edition thereof, as Amended by Chapter 129 of the Acts of 1948, and Every Other Act thereto Enabling.

**REGULATION 1. Reporting cases of diseases dangerous to the public health on dairy farms.** When a case of typhoid fever paratyphoid fever, diphtheria, scarlet fever, epidemic or septic sore throat, poliomyelitis (acute anterior), amebic or bacillary dysentery, or Asiatic cholera occurs on any farm or dairy producing milk, cream, butter or other dairy products for sale, it shall be the duty of the physician in attendance to report immediately to the local board of health the existence on such farm or dairy of such case. If no physician is in attendance it shall be the duty of the owner or person in charge of such farm or dairy to report forthwith to the local board of health the name and address of any person, who is affected with a disease presumably dangerous to the public health, and who is employed or resides on or in such farm or dairy or who comes in contact in any way therewith or with its products.

It shall be the duty of the local board of health to report immediately to the state district health officer by telephone or telegram the existence on such farm or dairy of a case of disease mentioned in this regulation, together with all facts as to the isolation of such case, and to give the names of the cities and towns to which such dairy products are delivered.

**REGULATION 2. Reporting of illness suspected of being due to consumption or food.** Every physician and every superintendent or other person in charge of any school, hospital, institution, dispensary, laboratory, labor camp or other camp, who shall have knowledge of the occurrence of a number or group of cases of illness believed to have been due to the consumption of food, shall report the same immediately, by telephone or telegram, to the local board of health.

**REGULATION 3. Notification of outbreaks of food poisoning, diarrhea, jaundice, epidemic influenza, glandular fever, sore throat and undiagnosed febrile disease.** Whenever there shall occur in any municipality an outbreak of suspected food poisoning or an unusual prevalence of diarrhea, gastroenteritis, enteritis, colitis, enterocolitis, cholera nostras, cholera infantum or other disease in which diarrhea is a prominent symptom, or whenever jaundice, epidemic influenza, glandular fever, sore throat or

any undiagnosed febrile disease is unusually prevalent, it shall be the duty of the health officer to report immediately the existence of such an outbreak to the Department of Public Health by telephone or telegram.

**REGULATION 4. Control of carriers.** No person found to be harboring typhoid, paratyphoid, dysentery or other pathogenic intestinal organisms may engage in a food-handling capacity until it is demonstrated to the satisfaction of the Department of Public Health that the said person no longer harbors the organism.

**REGULATION 5. Carrier, contact, isolation, placard and quarantine are defined as follows:**

(a) **Carrier.** A person who, without symptoms of a disease dangerous to the public health, harbors and may disseminate the specific microorganisms of that disease.

(b) **Contact.** Any person known to have been sufficiently near an infected person or animal to have been presumably exposed to transfer of infectious material directly, or by articles freshly soiled with such material.

(c) **Isolation.** The separation of persons suffering from any disease dangerous to the public health, or carriers of the infecting micro-organism, from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent to susceptible persons.

(d) **Placard.** An official notice, written or printed, posted as a warning of the presence of a disease dangerous to the public health on the premises or in the apartment or room so placarded.

(e) **Quarantine.** The restriction to the premises, house or apartment of materials and persons that presumably have been exposed to a disease dangerous to the public health.

**REGULATION 6. Isolation and quarantine requirements.** The following shall be the minimum requirements for isolation and quarantine of diseases dangerous to the public health:

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held in 1907.

Amended: 12/15/14, 12/14/15, 2/16/17, 4/3/17, 12/18/17, 10/29/18, 11/18/20, 12/8/21, 9/18/28, 6/11/35, 12/10/35, 11/10/36, 2/14/39, 5/1/41, 5/12/42, 4/14/43, 10/5/43, 12/14/43, 1/11/44, 11/3/48.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### ISOLATION AND QUARANTINE REQUIREMENTS OF DISEASES DECLARED TO BE DANGEROUS TO PUBLIC HEALTH.

The Department of Public Health, acting under the authority of Section 6, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 129 of the Acts of 1948, and every other act thereto enabling, hereby prescribed and establishes the following Isolation and Quarantine Requirements of diseases declared to be dangerous to Public Health.

DISEASE	MINIMUM PERIOD OF ISOLATION OF PATIENT	MINIMUM PERIOD OF QUARANTINE CONTACTS		PLAC- ARD
		Adults (Note 1)	Children	
Actinomycosis	No restrictions.	No restrictions.	No restrictions.	No
Anthrax	Until lesions are healed.	No restrictions.	No restrictions.	No
Asiatic Cholera	Same as typhoid fever.	Seven days from last exposure, and until a negative stool is obtained. Note 3.	Same as for adults.	Yes
Chancroid (Note 2)	No restrictions if under continuous treatment.	No restrictions.	No restrictions.	No
Chicken pox	One week from appearance of eruption.	No restrictions.	No restrictions.	No
Cholecystitis of typhoid origin (typhoid carrier). See Regulation 4	Supervision by local board of health until released from the carrier list by the Department of Public Health.	Food handlers living in a household with a typhoid carrier shall be excluded from their occupations unless they have been inoculated with typhoid vaccine within two years and agree to observe precautions prescribed by the board of health.	Same as typhoid fever.	No
Diphtheria	Until clinical recovery and thereafter until two successive negative cultures taken at least twenty-four hours apart, from both nose and throat, have been obtained.	No restrictions.	Until one week after patient has been hospitalized or until child lives away from home one week, and until two negative nose and throat cultures taken at an interval of not less than twenty-four hours have been obtained.	Yes
Dog Bite	No restrictions.	No restrictions.	No restrictions.	No
Dysentery, amebic	No restrictions except for foodhandlers, who shall be kept from their occupations until three successive negative stool examinations, secured at intervals of not less than three days apart, shall have been obtained.	No restrictions except for foodhandlers, for whom restrictions are same as for case.	No restrictions.	No
Dysentery, bacillary	Same as typhoid fever.	Note 3.	Same as typhoid fever.	No
Encephalitis, infectious	One week after onset, in insect-free room.	No restrictions.	No restrictions.	No
German measles	Three days from appearance of rash.	No restrictions.	No restrictions.	No
Glanders	Until lesions are healed.	No restrictions.	No restrictions.	No
Gonorrhea (Note 2)	No restrictions if under continuous treatment.	No restrictions if examination demonstrates absence of infections.	Same as for adults.	No
Granuloma inguinale (Note 2)	No restrictions if under continuous treatment.	No restrictions.	No restrictions.	No
Hepatitis, infectious	For duration of fever.	No restrictions.	No restrictions.	No
Leprosy	No restrictions.	No restrictions.	No restrictions.	No
Lymphocytic choriomeningitis	Until recovery.	No restrictions.	No restrictions.	No
Lymphogranuloma venereum (Note 2)	No restrictions if under continuous treatment.	No restrictions.	No restrictions.	No
Malaria	No restrictions.	No restrictions.	No restrictions.	No
Measles	One week from appearance of rash.	No restrictions.	No restrictions.	No
Meningitis, meningococcal	Until three days from beginning of adequate sulfonamide therapy.	No restrictions.	No restrictions.	No
Meningitis: Pfeiffer bacillus, pneumococcal, streptococcal, and other forms	No restrictions.	No restrictions.	No restrictions.	No

DISEASE	MINIMUM PERIOD OF ISOLATION OF PATIENT	MINIMUM PERIOD OF QUARANTINE CONTACTS		PLACARD
		Adults (Note 1)	Children	
Mumps	One week from onset of disease.	No restrictions.	No restrictions.	No
Ophthalmia neonatorum	Until two negative smears or cultures to rule out gonococcal ophthalmia have been obtained.	No restrictions.	No restrictions.	No
Plague	One week after subsidence of all symptoms.	No restrictions except in pneumonia cases who shall be quarantined for seven days after last contact.	Same as for adults.	Yes
Poliomyelitis (infantile paralysis)	Two weeks from onset of disease.	No restrictions.	No restrictions.	No
Psittacosis	Until recovery.	No restrictions.	No restrictions.	No
Rabies	During course of disease.	No restrictions.	No restrictions.	No
Rocky Mountain spotted fever	No restrictions.	No restrictions.	No restrictions.	No
Salmonellosis (paratyphoid infections)	Same as typhoid fever.	Note 3.	Same as typhoid fever.	No
Scarlet fever	One week from appearance of rash and thereafter until clinically recovered, and until purulent discharges, if any, have ceased.	No restrictions except for milk handlers and school-teachers who may continue their occupation only with special permission of the local board of health.	Until one week after the patient has been under adequate treatment or the patient has been hospitalized. Quarantined contacts living in a household with a case should be allowed to return to school at the same time as the patient is released from isolation.	Yes
Septic sore throat	Until one week after onset and until recovery, except milk handlers, who shall be excluded from their occupation until satisfactory evidence is obtained that the danger of conveying the disease has passed.	No restrictions except for milk handlers.	Same as for adults.	No
Smallpox	Three weeks from onset of disease and thereafter until all crusts have disappeared and skin has healed.	Note 4.	Note 4	Yes
Syphilis (Note 2)	No restrictions if under continuous treatment, except as given in Note 5.	No restrictions if examination demonstrates absence of infection.	Same as for adults.	No
Tetanus	No restrictions.	No restrictions.	No restrictions.	No
Trachoma	Exclusion from general school classes during acute stage.	No restrictions.	No restrictions.	No
Trichinosis	No restrictions.	No restrictions.	No restrictions.	No
Tuberculosis (all forms)	Note 6.	Note 7.	Note 7.	No
Tularemia	During acute stage.	No restrictions.	No restrictions.	No
Typhoid fever (Typhoid carrier: see "Cholecystitis of typhoid origin")	One week after subsidence of clinical symptoms. Thereafter may be released on special permission of and under the supervision of the local board of health, supervision to continue until three successive negative stool and urine cultures, secured at intervals of at least one week apart, have been obtained. In vermin-free room until recovery.	Note 3.	No restrictions provided contacts can be relied upon to observe precautions outlined by board of health and provided at least one satisfactory stool specimen is submitted for examination.	No
Typhus fever	In vermin-free room until recovery.	In presence of lice, until fourteen days after last exposure.	Same as for adults.	No
Undulant fever	No restrictions.	No restrictions.	No restrictions.	No
Weil's Disease (Infectious jaundice due to <i>Leptospira icterohemorrhagiae</i> )	Until recovery.	No restrictions.	No restrictions.	No
Whooping cough	Three weeks from beginning of spasmodic cough.	No restrictions.	No restrictions.	No
Yellow fever	In mosquito-proof room first four days of fever.	No restrictions.	No restrictions.	No



NOTES.

1. Definition of Adult: Any person who has reached his eighteenth birthday is considered to be an adult, for purposes of these regulations.

2. All of the above diseases except five should be reported to the local board of health. The five exceptions (chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum and syphilis) should be reported directly to the State Department of Public Health on special forms, provided upon request.

3. Food handlers living in a household where a case of typhoid, cholera, bacillary dysentery or paratyphoid fever exists shall be excluded from their occupation as long as they continue to live in the same house in which the case exists, and thereafter until freedom from infection, as judged by clinical and laboratory evidence, has been demonstrated to the satisfaction of the Department of Public Health. Food handlers living in a household with a recovered case which continues to excrete typhoid bacilli after convalescence shall be excluded from their occupations unless they have been inoculated with typhoid vaccine within two years.

4. Contacts shall be quarantined until three weeks have elapsed from the date of last exposure unless immunized by a previous attack, by a recent successful vaccination, or showing the immune reactions.

5. Patients who have lesions of primary or secondary syphilis on exposed parts of the body or in the mouth, and are employed in any occupation requiring regular, direct contact with other persons, such as barber, hairdresser, manicurist, waiter, waitress, nursemaid, domestic, etc., shall be reported by name, address and occupation, to the State Department of Public Health, unless the physician will assume responsibility for seeing that the patient discontinue such occupation until the lesions are healed.

6. Patients with open tuberculosis should in most cases receive sanatorium treatment, both for the benefit of the individual and the protection of his family. Those who remain in their homes shall observe all precautions necessary to prevent infection of the members of their families and of others with whom they may come in contact. This shall include approved methods of collection and disposal of the sputum, the sterilization of any articles of clothing and of toilet articles which may become contaminated by the sputum, the use of separate dishes and eating utensils and proper sterilization of the same. The patient should sleep in a separate room. For details concerning precautions in home care a pamphlet of the Massachusetts Department of Public Health entitled "Home Care of Tuberculosis Patients" is available.

As soon as a diagnosis of tuberculosis has been established, arrangements should be made for the examination, including an X-ray of the chest, of all members of the immediate family and of other persons with whom the patient has been in close contact. If the family cannot afford X-ray examination by a private physician, facilities are available through the various state, county and municipal sanatoria. Persons with suspicious findings and those who have had contact with a tuberculosis patient should be kept under medical observation as long as advised by the physician. It is the responsibility of the local board of health to provide hospital care for cases of tuberculosis, when needed, and to see that contacts are examined where such examinations have not been made through a private physician.

When a case is reported the public health nurse representing the board of health should visit the patient's home. She should instruct the family in the sanitary precautions described above, see that arrangements are made for the examination of contacts and if necessary provide transportation to the place where they are to be X-rayed, and should aid the patient in obtaining admission to a sanatorium if this has been recommended by his physician.

Thereafter, the nurse should make visits to the home at least once in six months to determine whether the patient has moved, whether the above-mentioned precautions are still being observed, and whether any new measures are needed to control the spread of the disease. If the patient has moved to another town or state, the Massachusetts Department of Public Health should be notified. In cases where the physician wishes to exercise complete supervision, the nurse should obtain such information from him.

The only acceptable reasons for the board of health failing to exercise the supervision outlined above are: refusal of the family physician to permit periodic visits by the nurse; or placing of the patient's name on an "inactive list" as a result of examination including X-ray.

No person who has or has had tubercle bacilli in the sputum or other bodily discharges shall be allowed to engage in teaching, nursing, dairying, or occupations involving food handling or the care of children until he has received a certificate from the board of health stating that his employment would not be dangerous to the public health.

7. Persons living in a family in which a case of tuberculosis exists or has existed within two years, and whose occupations involve food handling or contact with children, shall be required to have an X-ray of the chest to determine whether they shall be allowed to continue in such occupations.

Prescribed and established by the Massachusetts Department of Public Health, August 9, 1938, May 13, 1941, January 11, 1944 and November 3, 1948.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO TRANSPORTATION OF BODIES DEAD OF DISEASES DANGEROUS TO PUBLIC HEALTH.

The Department of Public Health acting under the authority of Section 107, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 265 of the Acts of 1938, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

The following terms hereinafter used are defined as follows:

"To transport" shall mean to convey or remove a dead human body from the place of death.

"To ship" shall mean to convey a dead human body by train, boat or airplane.

"Diseases dangerous to the public health" are those which have been so declared by the Department (reportable diseases).

"Deaths due to diseases dangerous to the public health" for the purposes of these regulations shall be interpreted as those of persons dying during the stage of the disease when it can be communicated to other persons.

**RULE 1.** No bodies dead of any disease dangerous to the public health may be transported or shipped, except as provided by Rules 3 and 4, without having been prepared for burial by thorough embalming and disinfecting.

**RULE 2.** Bodies dead of anthrax, glanders, leprosy, plague, smallpox or tularemia, which may produce dangerous surface lesions, and if such lesions occur on such bodies, may not be transported unless further prepared by being enveloped in a sheet saturated with bichloride of mercury, 1:500, and securely pinned; provided that if such lesions do not occur on head, neck or hands such parts may not necessarily be enveloped. When in doubt as to the preparation of such bodies for transportation, consult with the representative of the local board of health.

**RULE 3.** Bodies dead of diseases dangerous to the public health but without dangerous surface

lesions may be transported to the morgue of a funeral director without arterial and cavity embalming provided that such bodies have been prepared before transportation by thorough surface washing and disinfecting and by stopping and disinfecting of orifices and by enveloping in a sheet saturated with 1:500 bichloride of mercury and securely pinning the same. Before removal from such morgue the body must be thoroughly embalmed and disinfected.

**RULE 4.** Bodies dead of any disease dangerous to the public health may be transported directly to the place of burial within twenty-four hours of death, or within a reasonable period of time after death if the body is kept under adequate refrigeration in a place especially provided for such purpose, without arterial and cavity embalming, provided such bodies are prepared before transportation by disinfecting and by the stopping of orifices and by enveloping in a sheet saturated with 1:500 bichloride of mercury and securely pinning the same. Such unembalmed bodies are to be placed in sealed caskets or cases not to be reopened, and may be shown only under sealed glass panels. If such unembalmed bodies are to be shipped, they must be placed in hermetically sealed cases.

**RULE 5.** Bodies dead of any disease dangerous to the public health shall not be accompanied by articles which have been exposed to the infection of the disease, unless such articles have been properly disinfected.

**RULE 6.** No disinterment of the bodies of any persons who have died of any disease dangerous to the public health shall be allowed within six months from date of death, except by special permission of the representative of the local board of health.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 8/9/39, amended 2/14/39.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RULES AND REGULATIONS RELATIVE TO FUNERALS OF PERSONS DEAD OF ANY DISEASE DANGEROUS TO THE PUBLIC HEALTH.

The Department of Public Health, acting under the authority of Section 107, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 265 of the Acts of 1938, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

**RULE 1.** Funerals of those dead of anterior poliomyelitis, Asiatic cholera, diphtheria, infectious encephalitis, leprosy, meningococcus meningitis, plague, psittacosis, scarlet fever, smallpox, streptococcus sore throat or typhus fever, when conducted on the premises where such deceased persons died, shall be attended only by members of the immediate household, clergymen, undertaker and undertaker's assistants; when held from a place other than where such persons died, the representative of the local board of health may permit a public funeral if the

bodies, in his opinion, have been prepared or enclosed according to the regulations of the Department of Public Health and provided such persons as are probable carriers of the infection, by reason of contact, shall be forbidden to attend such funeral.

**RULE 2.** Bodies dead of anthrax, glanders, leprosy, plague, smallpox or tularemia, which may produce dangerous surface lesions, and if such lesions occur on such bodies, after preparation for transportation as regulated by the department, must be placed before the funeral in a sealed casket, not to be reopened, and the funeral may be either public or private. Such bodies may be shown only within a sealed glass-panel burial case.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 8/9/38. Amended 5/13/41; 1/11/44.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO CREMATION.

1. A dead body received for cremation from without the Commonwealth shall be accompanied by the usual burial permit required by law before burial, and if transported by a common carrier, by the usual transit permit.

2. No dead body received from without the Commonwealth shall be cremated by any corporation authorized to cremate the bodies of the dead until its officers shall have received a certificate from a medical examiner of this Commonwealth that he has viewed the body and is of the opinion

that no further examination or judicial inquiry concerning the same is necessary.

3. Where the death occurred without the Commonwealth more than ten years prior to the time of the presentation of the body for cremation, it may be cremated on receipt by said corporation of the certificate or burial permit required by the laws of this Commonwealth before burial.

4. All regulations heretofore made are hereby revoked.

Adopted Dec. 5, 1907, and amended Oct. 29, 1918.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE TREATMENT OF PERSONS EXPOSED TO RABIES.

The Department of Public Health, acting under the authority of General Laws, Chapter 140, Section 145A, as amended by Chapter 375 of the Acts of 1937 and Chapter 42 of the Acts of 1939, hereby establishes the following rules and regulations for the Treatment of Persons exposed to Rabies.

The board of health is under *no obligation* to furnish vaccine and treatment regardless of the opinion of the attending physician, *unless* the case is covered by one of these regulations.

These regulations should *not be interpreted* as a flat recommendation that all persons so bitten by or exposed to dogs should be given treatment, but rather as those conditions under which boards of health are required to furnish the vaccine and treatment if the circumstances surrounding the case indicate to the physician that the patient is in need of treatment.

1. Antirabic vaccine and antirabic treatment shall be furnished by the board of health for all persons bitten by or intimately exposed to the saliva of:
  - a. A clinically rabid animal.
  - b. An animal the head of which was found positive for rabies on laboratory examination.
  - c. An animal the head of which was found suspicious for rabies on laboratory examination.
  - d. An animal the head of which was in such condition on reaching the laboratory that it could not be examined, and was therefore, classified as *unsatisfactory* for examination.
  - e. An animal which could not be restrained for a clinical observation period of fourteen days after the date of biting or exposure.
  - f. An animal which was killed without being held for observation and without subsequent laboratory examination of the head.
2. Antirabic vaccine and antirabic treatment shall be furnished by the board of health for all persons bitten on the head or in cases with severe multiple lacerations. Treatment shall be discontinued at the end of seven days if the dog by which the patient was bitten is still well and is kept under observation for seven additional days, treatment to be resumed if the dog shows signs of rabies during this second seven-day period.

3. Before antirabic vaccine is furnished to a physician to treat a patient, said physician shall certify in writing to the board of health the name and address of the patient to be treated, the severity of the bite or degree of exposure, the place where the bite or exposure occurred and the identity of the animal responsible for the biting if said is obtainable.
4. If antirabic vaccine and antirabic treatment are given because of a bite or exposure occurring in another community than that in which the patient resides, notice of said facts shall be forwarded by the board of health to board of health and animal inspector of the community where said biting or exposure occurred, and to the county commissioners of the county, other than Suffolk, in which said latter community is located.
5. No charges shall be paid for services other than for the administration of the vaccine.
6. A physician shall be entitled to twenty-one doses of antirabic vaccine for the treatment of head bites or severe multiple lacerations on other parts of the body, and to fourteen doses for the treatment of all other bites or exposures.
7. The board of health may require a statement made under penalty of perjury and signed by the patient to be treated, or, in the case of a minor, by his parent or guardian or person immediately responsible for his supervision, stating the place where said person was bitten or exposed and the identity of the dog if obtained.

Prescribed and established by the Department of Public Health at a meeting of its Public Health Council held on Aug. 10, 1937. Amended May 13, 1941.

#### THINGS TO REMEMBER

*Don't kill the dog* that has bitten a person. Keep it under observation for 14 days.

If the biting dog is rabid, the patient should receive antirabic treatment at once.

Bites by stray dogs or those which cannot be located should be treated as though the dog were known to be rabid.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE APPROVAL OF BACTERIOLOGICAL AND SERIOLOGICAL LABORATORIES.

The Department of Public Health, acting under the authority of Section 184A, Chapter 111, General Laws, Tercentenary Edition as inserted by Chapter 344 of the Acts of 1939, and every other act thereto enabling, hereby prescribes and established the following rules and regulations relative to the approval of BACTERIOLOGICAL and SERIOLOGICAL LABORATORIES.

Granting of approval shall depend upon the submission of evidence of (1) satisfactory qualifications of the personnel, (2) suitable quarters and equipment, (3) the use of accepted methods, (4) ability to maintain a satisfactory level of performance and (5) adequate laboratory records.

1. *Qualifications of Personnel.* The responsible bacteriologist or serologist shall submit evidence of satisfactory training and experience in the performance of the tests for which approval is requested.

If tests are to be performed independently by other members of the laboratory or hospital personnel, either regularly or during absences of the bacteriologist or serologist shall submit evidence of such individuals must be approved by the Department.

A change in approved personnel automatically suspends approval for those tests performed by the person, leaving until the qualifications of the individual who will thereafter perform the tests have been approved by the Department, unless previous arrangements to cover an emergency are made with the Department.

2. *Quarters and Equipment.* The quarters shall be suitable in respect to location, lighting, and size. The equipment and supplies shall be sufficient in kind and quantity for the satisfactory performance of the tests for which approval is requested as well as for the other purposes for which the same equipment and supplies are used.

3. *Methods.* Only methods which are in wide enough use so that their specificity and dependability have become established will be considered accepted methods. Permission to substitute other tests will be granted only after the submission of evidence that the proposed method is accurate and dependable. Nothing in this paragraph should be construed as discouraging the use of other methods in parallel with the routine accepted method.

4. *Performance.* Satisfactory performance of tests will be measured by the ability to maintain close agreement on specimens sent out periodically to approved laboratories, and upon specimens sent to the Department by the approved laboratory. Where the number of tests of a certain variety performed by a laboratory are few, the Department reserves the right to request that all or a reasonable number of the specimens be divided and sent in for check. In evaluating performance the adequacy of the personnel to carry the load of work will be taken into consideration.

5. *Laboratory Records.* Complete records in regard to each specimen examined shall be kept on file for at least two years. Such records shall contain the date of receipt, the source and kind of specimen, the name or number of the patient, by whom submitted, the method and result of the examination, and the initials or name of person performing test.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on Sept. 12, 1939. Amended 1946.

NOTE: Attention should be called to the fact that the law as given above represents a modification of the original statute governing approval of bacteriological laboratories by the Legislature of 1946. This modification brings under the approval program laboratories doing tests upon milk, foods, eating utensils, water and sewage.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE USE OF A COMMON DRINKING CUP.

On and after July 1, 1916, it shall be unlawful to provide a common drinking cup—

(a) In any public park, street or way.

(b) In any building or premises used as a public institution, hotel, theatre, public hall or public school, or in any part of any factory, market, office building or store of any kind which is open to the general public.

(c) In any railroad station, railroad car, steam or ferry boat.

The term "common drinking cup" as used in these

regulations shall be construed to mean any vessel or utensil used for conveying water to the mouth, and available for common use by the public.

The Department of Public Health acting under authority of Chapter 428 of the Acts of 1910 hereby prescribes and establishes the following regulations concerning the use of a common drinking cup.

Prescribed and established by the Department of Public Health at a meeting of the Public Health Council held on March 22, 1916.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO USE AND CONCERNING THE PROVIDING OF A COMMON TOWEL.

The Department of Public Health acting under authority of Chap. 59 of the Acts of 1912 hereby prescribes and establishes the following regulations concerning the Providing of a Common Towel.

On and after July 1, 1916, it shall be unlawful to provide a common towel—

(a) In a lavatory used in connection with any public institution, schoolhouse, hotel, restaurant, theatre or public hall, or in any part of any factory, market, office building or store of any kind which is open to the general public.

(b) In a lavatory used in connection with any railroad station, railroad car, steam or ferry boat.

The term "common towel" as used in these regulations shall be considered to mean a roller towel or a towel available for use by more than one person without being washed after such use.

Prescribed and established by the Department of Public Health at a meeting of the Public Health Council held on 3/22/16. Amended 12/16/15; 3/22/16.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE APPROVAL OF LODGING HOUSES.

The Department of Public Health, acting under the authority of Section 20, Chapter 117 General Laws, Tercentenary Edition and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations relative to the approval of Lodging Houses.

#### LODGING HOUSES.

1. The means of lighting and ventilating sleeping rooms shall be beyond the control of lodgers and shall meet the approval of the local board of health. Each room shall have direct connection with the outer air through one or more windows above the surface of the ground.

2. Not less than 300 cubic feet of space shall be allowed for each person.

3. The floors and stairways shall be smooth and tight, and if of wood shall be either painted or shellacked.

4. If movable bedsteads are used, they shall be single and of iron, with woven wire spring, covered with one or more blankets in place of a mattress.

5. No person shall be allowed to sleep in his day clothing, nor to smoke in the rooms.

6. No person shall be allowed to go to bed without first having had a full bath.

7. Each person shall be provided with a clean nightshirt.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on July 6, 1905.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO DENTAL CLINIC LICENSE.

The Department of Public Health, acting under the authority of Section 50, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

A. Evidence must be submitted that there is need for a dental clinic and that it will be for the benefit of the public, taking into consideration the location, the number of people served, the type of community and other pertinent considerations.

B. Evidence must be submitted that the clinic meets the need and that the size of the professional staff and the hours of operation are adequate to take care of the demands placed upon it. Granting of approval shall depend upon the submission of evidence of:

#### 1. Qualification of personnel

- a. A licensed dentist shall be in attendance at each clinical session where dental operative treatment is given, except for the cleaning of teeth.
- b. An assistant must be in attendance to keep records and reports. If properly trained, this assistant may clean and sterilize instruments, and a licensed dental hygienist may in addition clean teeth. In large clinics a trained chair-side assistant should be in attendance.
- c. No person suffering ill health with a disease dangerous to the public health in a communicable stage shall be in attendance at a clinic. The operating dentist must present a recent certificate

of adequate eyesight for performance of dental operations.

#### 2. Suitable quarters

- a. Quarters shall be suitable in respect to location, light and size.
- b. There shall be adequate and suitably located hand-washing facilities in the clinic.
- c. There shall be at least two rooms—one for waiting and one for examination and treatment.
- d. Equipment and supplies must be sufficient in number, variety and quality to assure the performance of service that will be of benefit to those served. Apparatus for sterilizing instruments by boiling shall be on the premises. General anesthesia shall be in proper working order and a type satisfactory to the Department of Public Health.

#### 3. Records

An acceptable individual record shall be kept on each case, and an approved daily clinic report shall be kept. Both shall be signed by the operating dentist.

- C. If the clinic is partially supported by public contributions, the application shall receive the approval of the local boards of health and welfare.
- D. Dental clinics supported by taxation and operated by cities and towns subject to rules and regulations of local boards of health do not require a license from the department.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on Aug. 10, 1943.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO CROSS CONNECTIONS BETWEEN PUBLIC WATER SUPPLIES AND FIRE AND INDUSTRIAL WATER SUPPLIES.

The Department of Public Health, acting under the authority of Section 41, Chapter 40 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

**RULE 1.** After December 31, 1937, no physical connection between the distribution system of a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, and that of any other water supply shall be permitted, unless such other water supply is approved by the Department of Public Health as being of safe sanitary quality and the connection of both supplies is approved by the Department of Public Health.

No Officer, board, corporation or other person or group of persons, owning or having the management or control of any water supply, the water of which is furnished to any municipality or district for drinking and/or domestic and/or culinary purposes shall supply water to any person, firm or corporation maintaining such a connection.

*Provided:* Where such physical connection exists on December 1, 1937, the date of discontinuance may be temporarily extended with the permission of the Department of Public Health provided it includes two gate valves with suitable indicators and two check valves with drip cocks, gages for testing, all located in a pit or room having facilities for draining and readily accessible for periodic inspection and overhauling of the equipment, the entire installation and design of which are approved by the Department of Public Health.

**RULE 2.** If a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, is used as an auxiliary supply delivered to a tank also supplied with water from a source with which cross connections are not permitted by Rule 1, such tank shall be subject to the approval of the Department of Public Health and shall be open to atmospheric pressure and the water shall be supplied to the tank above the maximum level of water in the tank. The tank overflow shall be of adequate size to fix definitely the maximum level.

If the water supply is stored in a tank supplied only from a water supply approved by the Department of Public Health for drinking and/or domestic and/or culinary purposes and directly connected to a water supply, also approved by the said Department of Public Health, such tank shall be so constructed as to avoid any possible contamination of the water in the tank and shall be subject to the approval of the Department of Public Health.

**RULE 3.** Rules 1 and 2 notwithstanding, the Commissioner of Public Health, subject to the approval of the Public Health Council, may in case of emergency approve a physical connection between the distributing system of a public water supply, the water of which is used for drinking and/or culinary purposes, and any other water supply, provided that the supplies thus connected and the physical connection relating thereto shall be for the duration of the emergency only.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 2/9/37, amended 5/12/42.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### TO PREVENT POLLUTION OR CONTAMINATION OF ANY OR ALL THE LAKES, PONDS, STREAMS, TIDAL WATERS AND FLATS WITHIN THE COMMONWEALTH OR OF THE TRIBUTARIES OF SUCH TIDAL WATERS AND FLATS.

The Department of Public Health, acting under the authority of Section 5, Chapter 111 of the General Laws, appearing in the Tercentenary Edition thereof, as amended by Chapter 615 of the Acts of 1945, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations to prevent the pollution or contamination of any or all of the lakes, ponds, streams, tidal waters and flats within the Commonwealth or of the tributaries of such tidal waters and flats.

1. No sewage and no human excrement or compost containing human excrement, and no house slops, sink wastes, or waste water which has been used for washing or cooking, or other polluted water, shall be discharged or put into any lake, pond, stream, tidal water and flat within the Commonwealth, or into a tributary of such tidal water and flat, except as may be approved by the Department of Public Health when in the opinion of the said Department the best practicable and reasonably available means to render harmless such sewage, human excrement, house slops, sink wastes, waste water or other polluted water have been provided in accordance with plans approved by the Department.

2. No garbage, manure, or other putrescible matter whatsoever, shall be discharged or put into any lake, pond, stream, tidal water and flat within the Commonwealth, or into a tributary of such tidal water and flat, except as may be approved by the Department of Public Health when in the opinion of the said Department the best practicable and reasonably available means to render harmless such garbage, manure, or putrescible matter have been provided in accordance with plans approved by the Department.

3. No manufacturing refuse, or waste product, or polluting liquid, or other substance which by itself or in combination with other substances is of a

nature poisonous or injurious either to human beings or animals, or any putrescible organic matter whatsoever, shall be discharged or put into any lake, pond, stream, tidal water and flat within the Commonwealth, or a tributary of such tidal water and flat, except as may be approved by the Department of Public Health when in the opinion of the said Department the best practicable and reasonably available means to render harmless such manufacturing refuse, waste product, polluting liquid, substance, or putrescible organic matter, have been provided in accordance with plans approved by the Department.

4. No refuse, or waste product, or polluting liquid, or other substance of a nature poisonous or injurious either to human beings or animals, or putrescible organic matter whatsoever from a tannery, currying shop, or other establishment or place where the skin, wool, hair, or fur, of any animal is treated, or from a slaughterhouse or other building for carrying on the business of slaughtering cattle, sheep, or other animals, and no wastes from a melting or rendering establishment shall be discharged or put into any lake, pond, stream, tidal water and flat within the Commonwealth, or a tributary of such tidal water and flat, in a manner which may be injurious to the public health, or may tend to create a public nuisance, except as may be approved by the Department of Public Health when in the opinion of the said Department the best practicable and reasonably available means to render harmless such refuse, waste product, polluting liquid, substance, putrescible organic matter, or wastes have been provided in accordance with plans approved by the Department.

Prescribed and established by the Department of Public Health at the Meeting of its Public Health Council held on Tuesday, August 14, 1945, amended 10/14/45.



# The Commonwealth of Massachusetts

Supervision of Plumbing (State Board of Registration of Plumbing Sec. 4, 8 Chapter 142 General Laws, Ter. Ed.) as Related to State Department of Public Health.

## RULES AND REGULATIONS

### RELATIVE TO THE SUPERVISION OF PLUMBING.

#### REGISTRATION AND NOTICES

SECTION 1. After acceptance of the following plumbing regulations all persons who desire to engage in, carry on or work at the business of plumbing within this jurisdiction shall be registered or licensed by the State Examiners of Plumbers, in accordance with the provisions of Chapter 142, General Laws.

Every plumber before commencing work in a building, shall first, except in the case of the repair of leaks, file at the office of the building commissioner, if any, otherwise the inspector of buildings or board of health, upon blanks provided for that purpose, a notice of the work to be performed; and no such work shall be done in any building except in accordance with plans, to be submitted, if required, which shall be approved by the inspector of plumbing and a permit issued therefore. Permits to perform plumbing shall be issued to master plumbers only. Permits may be recalled if the conditions are violated.

#### SEWAGE DISPOSAL

SECTION 2. The plumbing of each building shall have an independent connection to a public sanitary sewer outside of building, unless in the opinion of the Board of Health a separate connection is not feasible. If a public sanitary sewer is not available, the sewage shall be discharged into a cesspool or into a septic tank with an overflow into a cesspool or into a subsurface distribution system, the plans of which must be approved by the Board of Health before the connection is made.

#### DRAINAGE SYSTEM

SECTION 3. Drain and connecting ventilation pipes, vents and back air pipes shall be of sufficient size, and made of extra heavy cast iron pipe coated with hot tar or asphaltum if under ground, and if above ground shall be made of extra heavy cast iron pipe, cast iron screw pipe, lead pipe or of not less than iron size brass or copper pipe or of copper tubing type K or L with "sweat" type fittings within the building. Galvanized or plain screw pipe and fittings and galvanized pipe may be used on vents. Connections between screw pipe and fittings shall be made with pipe and fittings of the same material, where practicable. Recessed fittings shall be used on drainage pipes and connections between such fittings and pipes shall be made with sharp tapered threads, and an approved pipe joint compound. No slip joints, unions, or flanges shall be used on the

threaded wastes or vents except that slip joints may be used on inlet side of trap to connect fixtures. Where other than hub and spigot pipe is connected to cast iron hubs the joint shall be made by means of a caulking sleeve.

*Lead pipe shall be of the following diameters and weights:—*

Diameter (Inches)	Weight (Pounds per foot)	Diameter (Inches)	Weight (Pounds per foot)
1½	3	3	6
2	4	4	8

Lead bends and traps shall correspond to the above weights. Brass sleeves for connecting lead and cast iron pipes shall be extra heavy, at least ⅛ of an inch thick and made of cast red metal. Brass solder nipples for connecting lead and threaded pipes shall be either cast red metal or seamless iron size brass or copper pipe, size and weight corresponding with pipe to be connected. In connecting lead pipe together, or to brass caulking or soldering nipples, full sized wiped joints shall be used. Cleanouts, plugs, stoppers or any other fittings used in drainage system shall correspond in weight and material with above description.

Drain pipes above ground shall be secured by irons to walls, suspended from floor beams by strong iron hangers, or supported on brick piers at points sufficiently close to keep it in alignment and carry the weight of pipe and contents. Proper manholes shall be supplied to reach cleanouts and traps. Every drain pipe shall have a fall of not less than one-quarter inch per foot, and shall be extended from a point five feet outside the inside face of the wall unobstructed, unless special permission has been granted by the Board of Health for the use of a running trap at the entrance to building; to and through the roof, undiminished in size, and to a height of not less than two feet above the roof and not less than one foot above the top of any window or opening within fifteen feet, and not less than eight feet above the roof if the roof is used for a garden or similar purpose. The drain pipe shall be supplied with a Y branch fitted with a brass cover cleanout or with an iron stopper if required, on the direct run, at or near the point where the drain leaves the building. Changes in direction shall be made with long angle and long sweep bends, and all connections with horizontal or vertical pipes shall be made with Y branches. Soil and waste pipes shall have the proper TY or Y branches for all fixture connections. Saddle hubs or double hubs shall not be used. All drain pipes shall be exposed to sight



within the building, if such exposure is practicable, and shall not be subjected to pressure where they pass through the wall. All joints in hub and spigot cast iron pipe shall be made with oakum and molten lead, run full and caulked gas and water tight, and no cement joints nor connections between iron and cement or tile pipe or brick drains shall be made within any building.

*Soil and waste pipes shall not have less than the following diameters:—*

Minimum branch waste . . . . .	1-½ inches
Minimum branch waste for urinals . . . . .	2 inches
Branch waste for sinks . . . . .	1-½ inches
Branch waste for wash trays . . . . .	1-½ inches
Main waste . . . . .	2 inches
Main waste for sinks, five floors or more . . . . .	3 inches
Soil pipe . . . . .	4 inches
Branch waste for sink and tray combination . . . . .	2 inches
Slop sink waste . . . . .	3 inches
Minimum branch waste for sinks equipped with grease traps . . . . .	2 inches

#### STEAM EXHAUSTS

No steam or vapor or water of a temperature over one hundred and thirty degrees Fahrenheit shall be discharged from any premises into a sewer, drain or catch basin, nor shall any matter or thing be discharged into any sewer which may tend to cause an obstruction of the sewer, or a nuisance or deposit therein or an injury thereto.

All pressure steam boilers connected to the drain shall be connected with a blow-off tank of a capacity not less than thirty percent of the largest boiler connected with such tank. The location of and the connections to said blow-off tank shall be subject to the approval of the Board of Health.

No steam exhaust or steam drip, unless it be connected with the blow-off tank, shall be connected with any drain leading to the sewer. Every blow-off tank shall be supplied with a vapor pipe not less than two inches in diameter which shall be carried above the roof and above the highest windows of the building.

The Board of Health may require such additional means of cooling the blow-off tanks by the injection of cold water or otherwise as may be necessary to reduce the temperature of the water passing from the blow-off tank so that it shall not exceed one hundred and thirty degrees Fahrenheit. The discharge from blow-off tanks shall be carried ten feet outside of the building before entering house sewer.

#### TRAPS

**SECTION 4.** The waste pipe of every independent fixture shall be furnished with a separate trap, which shall be placed as near as practicable to the fixture which it serves. A combination sink and tray may be connected with the house drain through one drum trap or through a two inch ½ S brass trap, when outlets are not over three feet six inches apart; but the outlet of each fixture shall enter the trap separately. Lead bends for water closets or

slop sinks shall not be used to connect waste from other fixtures. The connections between drainage pipes and earthenware traps shall be made by means of brass or iron flanges caulked, soldered or screwed to the drainage pipes and bolted to the earthenware and the joint made of grafting wax, red or white lead putty, except in the case of water sealed flanges where an approved gasket may be used. All traps shall be of open form, and traps depending upon concealed partitions to retain their seal will not be approved, except for earthenware fixtures, where the trap seal is plainly visible. Trap screws for cleaning purposes shall be placed in all metal traps, and where such traps are placed in connection with fixtures, they shall be so installed that the water seal will protect the trap screw from sewer air. Traps shall be of lead, cast iron or brass, except that drum traps shall be of lead or brass.

#### SPECIAL TRAPS

##### SPECIAL WASTES AND TRAPS

**SECTION 5.** Drainage from stables, garages, laboratories, special fixtures and kitchen shall be installed in accordance with plans approved by the Board of Health.

When liquid wastes from barns, stables, manure pits and the stable yards are permitted to enter the sewer system, they shall be intercepted by a properly trapped catch basin of suitable size and design.

All discharge lines from garages, service pits, washstands, and other structures where gasoline, naphtha or other inflammable oils or compounds are used shall be provided with a catch basin, properly trapped, or gasoline and oil interceptor approved by the Board of Health, so designed as to safeguard against the entrance of sand, oil, gasoline, or other inflammable compound into the sewers. The device shall be ventilated with a separate pipe to a point 3 feet above the roof. These catch basins and interceptors shall have the accumulated oil, gasoline or other inflammable liquids, sand, silt or other solids removed at regular intervals.

Grease interceptors or grease traps of a type approved by the Board of Health shall be installed on the waste pipes from all pot or dishwashing sinks or machines in every kitchen, pantry or serving room. The trap shall be placed as near as practicable to the fixture which it serves, shall be of sufficient size, easily accessible to open and clean. Every building from which, in the opinion of the Board of Health, grease may be discharged in such quantity as to clog or injure the sewer shall have a grease trap located outside the building at a point approved by the Board of Health.

Waste and vent pipes, traps and fittings serving fixtures in chemical laboratories shall be of approved acid-resisting materials made for the purpose. The arrangement of piping shall be subject to the approval of the Board of Health. So-called acid-resisting hub and spigot cast-metal pipe of the same dimensions as extra heavy cast-iron hub and spigot pipe or other approved corrosion-resisting pipe may also be used for waste and vent pipes.



# CLEANOUTS

SECTION 6. Cleanouts, known as Boston Regulation Pattern, shall be placed at changes in direction and at foot of vertical stack, or other points necessary to make all portions of horizontal drainage system accessible for cleaning purposes.

## BACK AIR PIPES, VENTS, ETC.

SECTION 7. All branches of soil or waste pipe, if more than fifteen feet in developed length, shall be extended through the roof undiminished in size or re-vented into the main vent system. All connections on lead waste and back air pipes and of lead pipes to brass ferrules and soldering nipples shall be full size wiped soldered joints. Traps shall be protected from siphonage or air pressure by iron, lead, brass or copper air pipes of a size not less than the waste pipes they served. Continuous system shall be used and back air pipes shall not be connected to the trap or branches into the waste pipe except where a continuous vent is not practicable. Back air pipes shall enter the waste pipe within twenty-four inches measured horizontally of the trap and shall be a continuation of the waste pipe. Air pipes for water closet traps shall be of 2" internal diameter if for not more than three fixtures and less than thirty-five feet in length; if for more than three fixtures or more than thirty-five feet in length, they shall be of 3" internal diameter. Air pipes shall run as direct as practicable, and if one and one-half inches in diameter shall not exceed thirty feet in length. Two or more air pipes may be connected together or with a vent pipe, but, in every such case the connection shall be above the top of the fixture.

The traps for the upper fixtures on a line of soil or waste pipe if within five feet horizontal developed length of the stack and the outlets of which connect independently to the stack, shall not require a special air pipe unless the outlets are branched into the stack more than 18 inches long below the floor line, or if the waste pipes from said traps are less than 3 inches in diameter and have more than  $\frac{1}{4}$  inch per foot pitch. Diameters of vent pipes shall be not less than 2 inches for main vents through less than seven stories, three inches for water closets on more than three floors, and for other fixtures in more than seven stories. All vent and air pipes shall be at least four inches in diameter before passing through the roof. Vent lines shall be connected at the bottom with a soil or waste pipe or with a drain, in such manner as to prevent accumulation of rust scale and properly to drip the water of condensation. Offsets shall be made at an angle of not less than forty-five degrees. Drain, soil, waste and vent pipes shall be supported at least every eight feet on horizontal runs, and at least once to every story on vertical lines. In buildings where a series of bath-rooms or kitchens are located directly over each other and have a common soil or waste pipe the back air pipe required shall be a vent line connecting with each outlet branch close to the water closet connection or outlet from the sink trap, each branch vent to connect to vent line above the top of the highest fixture on each floor, the vent line to connect to main vent

line above the top of the highest fixture in the building. In the case of batteries of water closets, the special air pipe from each trap may be omitted, provided that the soil or waste pipe, undiminished in size for batteries up to and including four such water closets is continued to a point above the roof or re-vented into the main soil pipe system above the top of the uppermost fixture. Stall urinals and floor drains may have the same system of battery ventilation, providing the waste pipe is one inch larger than the traps of the fixtures they serve. The waste pipes from urinals shall be the size of the discharge opening in urinal and in no case shall it be less than two inches in diameter, unless wall hung, and in such case an inch and a half trap may be used.

## SCHEDULE OF BACK AIR PIPES AND VENTS FOR FIXTURES

FIXTURES	Size of Pipe (inches)	Greatest Length Allowed (feet)	Maximum Number of Fixtures
Baths, sinks, basins, urinals, sink and tray combination	$1\frac{1}{2}$	30	3
	2	70	9
	3	70	21
Water closets or slop sinks	2	35	3
	3	70	9

## TESTING AND INSPECTION

SECTION 8. Pipes or other fixtures shall not be covered or concealed from view until approved by the Board of Health, except when in the case of an emergency or repair of leaks this would be impracticable. All work, including emergency and repair work, shall be examined and/or tested within two working days after notice is received by the Board of Health that it is ready for inspection. Plumbing shall not be used unless, when roughed in the wastes, vents, back air pipes and traps are first tested, in the presence of a representative of the Board of Health, by water or sufficient air pressure if such test is practicable, and a final inspection shall be required when plumbing work is completed, and, if satisfactory, a certificate of approval shall be issued therefor to the plumber who signed the application.

## WATER CLOSETS, ETC.

SECTION 9. Every building shall have such number of water closets as the Board of Health may require. Every building where persons are employed shall have at least one water closet for every fifteen persons employed therein; and in any building where persons of both sexes are employed, separate accommodations shall be furnished for both men and women. No trapped plumbing fixture shall be located in any room or compartment which does not contain a window having an area of at least 3 square feet placed in an external wall of the building or which is not provided with an approved system of ventilation. Every enclosure, the walls and doors of which extend from floor to ceiling and in which is located one or more water closets or urinals



shall have similar ventilation requirements. The Board of Health, may, by special permission, grant authority for installing a different system of ventilation than that described herein. Water closets shall be flushed by water from tanks or by flushometer valves capable of delivering 5 gallons of water to the closets in 10 seconds or in the case of urinals, two gallons of water in 10 seconds. Water from water closet or urinal flush tanks shall be used for no other purpose.

**SECTION 10.** No water closet, urinal or any other fixture, appliance, appurtenance or device shall be directly supplied from a water distribution system through a flushometer, or other valve, faucet, bibb or device, unless such flushometer or other valve, faucet, bibb or device and outlet therefrom is set at least 1.5 times the diameter of the outlet plus .50 inches above the maximum water level or the water is supplied to the outlet by way of an approved siphon breaker or vacuum breaker installed in approved manner.

All flushometers and back flow preventers (siphon breakers or vacuum breakers) shall be subject to a laboratory test by and the approval of the Department of Public Health. Backflow preventers shall be of the moving part and air vent type which shall be of such size and proportions as to allow an ample flow of water to fixture, a complete functioning unit installed separately or contained wholly within the flush valve body between the flush valve mechanism and the fixture. The preventer shall be of non-corrodible material, shall not leak under any degree of back pressure and shall operate quietly. The device shall prevent a reduction of pressure in the flush pipe greater than one inch of water when the outlet end of the flush pipe is closed or submerged in water and a vacuum of 20 inches of mercury is applied on the supply side.

The critical level shall in no case be below the outlet connection, and when the critical level is above that point it shall be shown by a horizontal line not less than  $\frac{1}{4}$  inch long and clearly stamped on the body the symbols C-L or . When not indicated the critical level shall be considered as being at the level of the outlet end of the device. The critical level of backflow preventers when installed shall be located at least 4 inches above the flood level of the fixture (maximum water level) except where existing supplies, which do not permit an elevation of 4 inches, must be accommodated, the elevation of the critical level may be placed not less than 2 inches above the flood level of the fixture. Each backflow preventer shall be clearly marked with the manufacturer's name and sufficient additional information to identify it from any other model that is made or has been made by him.

#### STORM AND SURFACE WATER

**SECTION 11.** All roofs and paved areas, yards, courts and court yards shall be drained into the storm water drainage system but not into the separate sewers intended for sewage only except where the storm sewer is above the area way, in which case the area may be connected with the sanitary

sewer if properly trapped and approved by the Board of Health.

When drains used for this purpose are connected with the combined sewerage systems they shall be effectually trapped. One trap may serve for all such connections but traps must be set below the frost line or inside of the building. Where there is no storm sewer accessible such connections shall be discharged in such manner as not to flow upon a public way or adjoining land.

Wherever a surface drain is installed in a cellar or basement it shall be provided with a deep sealed trap and backwater valve. Drain pipes from fixtures subject to back-flow from sewer shall be supplied with back-water valves.

#### INDIRECT, REFRIGERATION AND SPECIAL WASTES

**SECTION 12.** No waste pipe from a refrigerator, ice-box or cold room, any receptacle where food is stored, any sterilizer, autoclave, sterile water tank or any receptacle used to treat, process or store surgical or hospital supplies and equipment or any receptacle for storing or dispensing drinking water except drinking fountains which are properly trapped and vented shall connect directly with any house drain, soil or waste pipe. Such waste pipe shall in all cases empty over an open sink, floor drain or other fixture that is properly supplied with water, connected, trapped and vented the same as any other fixture and an air gap of at least twice the diameter of the waste pipe shall be provided between the waste pipe and the receiving receptacle or waste pipe except that an open waste fitting or an approved back flow preventer will be permitted in lines from receptacles not subjected to a vacuum or directly connected to the water supply.

#### MECHANICAL DISCHARGE SYSTEM

**SECTION 13.** Fixtures that discharge into tank and from tank to pump or ejector shall be protected from siphonage with not less than a four inch pipe up and through the roof. Tank shall be vented and vent pipe from tank may be connected to vent stack not less than twenty feet in height from tank. No gravity fixture shall be vented into this system. Tank vent shall be same size as waste or soil pipe. No fixtures shall be connected to the discharge pipe from an ejector or pump between the ejector or pump and the point where it enters the house drain or sewer. When the drain is subject to back-flow a check valve shall be used.

#### HOT WATER TANKS AND SAFETY APPLIANCES

**SECTION 14.** No range boiler, tank, vessel or container, ferrous or nonferrous, in which water is to be heated or stored under pressure for domestic, culinary or sanitary purposes, in this section and in sections fifteen and sixteen referred to as hot water tanks, shall be sold or offered for sale unless it is plainly marked, by stamping into the metal of the tank, or into a metal plate permanently attached to the tank, in a conspicuous place, and permanently visible, as follows:



- A. Manufacturer's name or registered trade mark.
- B. Rated capacity of hot water tank in United States gallons.
- C. Hydrostatic pressure in pounds per square inch at which the tank has been tested by the manufacturer, following the words: "Tested to ."
- D. Maximum allowable working pressure in pounds per square inch.

SECTION 15. No hot water tank shall be repaired, relocated or installed and connected, unless it meets the following construction requirements:—

- A. The actual capacity of a hot water tank shall be within seven and a half percent of the capacity stamped on the tank.
- B. A hot water tank shall be so constructed by riveting, welding, or otherwise as to withstand the stamped test pressure without visible permanent distortion, and be so designed as to have an ultimate strength sufficient to withstand a hydrostatic pressure twenty-five per cent higher than the stamped test pressure.
- C. Solder which melts at a temperature below seven hundred degrees Fahrenheit shall not be used to hold the tank together, but may be used to make it water tight, cistern tanks excepted.
- D. A hot water tank in which water is to be heated or stored under pressure greater than fifteen pounds per square inch shall have a stamped test pressure of not less than two hundred pounds per square inch.
- E. The maximum working pressure at which a hot water tank may be installed shall not be greater than forty-two and half per cent of the test pressure marked on the tank.

SECTION 16. No hot water tank shall be repaired, relocated or installed and connected unless it is protected with safety devices as follows:—

- A. A hot water tank in which water is to be heated or stored under pressure greater than fifteen pounds per square inch shall be equipped with a suitable pressure relief valve installed in a tapping in the tank or in the cold water supply line, or the hot water outlet line, with no shut-off valve between the relief valve and the tank. The pressure relief valve shall be set by the manufacturer to operate at a pressure not more than twenty pounds above the maximum working pressure stamped on the tank, and shall be so constructed that said setting cannot be exceeded by normal means of adjustment.
- B. A hot water tank to which a heating device or appliance capable of delivering water to

the tank at a temperature greater than two hundred and twelve degrees Fahrenheit is connected shall be equipped with a suitable temperature relief valve so adjusted and installed as to prevent the accumulation of water which is at a temperature in excess of two hundred and twelve degrees Fahrenheit. Said temperature relief valve shall be installed in a tapping directly in or on the tank within twelve inches of the top of a vertical tank, or within six inches of the top of a horizontal tank, with no fittings between the valve and the tank, except that a bushing may be used to reduce the tapping to fit the valve. If the examiners permit the locating of the temperature relief valve on the hot water outlet pipe, in no case shall the heat sensitive member of said temperature relief valve be more than four inches away from the top of the tank. The discharge outlet of the temperature relief valve and of the pressure relief valve, if a separate pressure valve is used, shall be connected by means of a non-ferrous pipe or tubing not less than three eighth inch inside diameter, with no shutoff, to an open plumbing fixture, or to within twelve inches of the basement floor.

A thermostatically controlled hot water tank may be protected by an automatic fuel shut-off device in addition to the thermostat. Such shut-off device shall be installed in the same location and perform the same function as said temperature relief valve.

- C. All parts of temperature and pressure relief valves which are in contact with water shall be made of non-ferrous metals or materials having suitable corrosion resisting properties. All pipe and fittings between relief valves and the hot water tank shall be of non-ferrous metals.
- D. Relief valves shall be marked by the manufacturer, by stamping or casting in the metal of the valve, or on a metal tag permanently attached to the valve as follows:
  1. Manufacturer's name or registered trade mark.
  2. The type or style, or the type and style, of the valve.
  3. The pressure setting of the valve in pounds per square inch.
  4. The temperature setting in degrees Fahrenheit.
  5. Temperature relieving capacity in B.T.U. per hour.
- E. Temperature and pressure relief valves and other devices referred to in this Section shall be subject to the approval of the inspectors of plumbing.
- F. All pipes and fittings in the circulating system between a hot water tank and the heating device or appliance shall be non-ferrous, and of ample size so as to make it possible



to heat seventy-five per cent of the available water in the tank without raising the temperature of any part of the water above two hundred and twelve degrees Fahrenheit. Every water tank heater using coal, gas or oil fuel shall be properly connected to the nearest chimney or smoke pipe by a pipe of suitable size. No hot water tank shall be installed without being equipped with an approved appliance for relieving any partial vacuum which may be formed therein unless the construction of the boiler is such that it is able as shown by test and so stamped by the maker, to withstand an external pressure of fourteen pounds per square inch.

### CROSS CONNECTIONS

**SECTION 17.** Any connection in piping, whereby a public or private water supply used for drinking or culinary purposes is connected with a secondary supply or a supply of questionable quality or whereby polluted matter may enter the supply used for drinking or culinary purposes, shall be considered a cross connection.

No cross connection shall be installed unless the piping connections and valves connected thereto have been approved by the Board of Health, after tests showing that no polluted matter from such fixtures can enter the water supply system used for drinking or culinary purposes and all existing cross connections shown to be improper by test or inspection as herein indicated shall be removed. Check valves or other uni-flow devices may be considered as suitable mechanical means of separation only if these devices are accessible for overhauling or inspection and equipped with drains and test outlets and the installation is approved by the Board of Health. Temporary connections shall not be permitted.

Valves of the positive type which include gate, globe, stop and similar valves are not considered as adequate protection.

Any cross connections permitted with a fire service, boiler feed, process or other secondary supply, shall be protected by a properly installed and adequately supervised all bronze, rubber seated double check valve of a type approved by the Board of Health.

### DEFINITIONS

**SECTION 18.** *Air gap* in a water supply system is the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank or plumbing fixture and the flood level rim of the receptacle.

*Backflow* means the flow of water or other liquids into the distributing pipes of a supply of potable water from any source. Back siphonage is one type of backflow.

*Backflow Preventer* (sometimes called vacuum breaker) is a device for installation in a water supply pipe to prevent backflow of water into the water supply system from the connections on its outlet end.

*Branch* is any part of a piping system other than a main.

*Building drain* is that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste or other drainage pipes inside the walls of any building and conveys it to the building (house) sewer beginning five feet outside the inner face of the building wall.

*Building (house) Sewer* is the extension from the building drain to the street sewer or other place of disposal.

*Critical Levels* of a backflow preventer is the level to which a preventer can be immersed in water before backflow begins.

*Dead End* is a branch leading from a soil, waste, vent, house drain or house sewer which is terminated at developed distance of 2 feet or more by means of a cap, plug or other fitting.

*Emergency* is the installation or replacement of piping or fixtures on plumbing systems which must be made at such times as to prevent the filing of an application for a permit to do the plumbing before starting said work.

*Flood level* in reference to plumbing fixture is the level at which water begins to overflow the top or rim of the fixture.

*Floor drain* is a drain for carrying off surface, overflow and clean water from a floor surface.

*Journeyman plumber* is a person who himself does any work in plumbing and is registered and licensed under the law.

*Local vent pipe* is a pipe through which foul air is removed from a room or fixture.

*Main* of any system of continuous piping is the principal artery of the system to which branches may be connected.

*Master plumber* is a plumber having a regular place of business and who by himself or journeyman plumbers in his employ performs plumbing work and who is registered and licensed under the law.

*Plumbing* is the work or business of installing, repairing or altering in buildings the pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-borne wastes. The term is also used to denote the installed fixtures and piping of a building.

*Plumbing system* of a building includes the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the building (house) drain and building (house) sewer; and the storm waterdrainage pipes; with their devices, appurtenances and connections all within or adjacent to the building.

*Plumbing fixtures* are receptacles which receive and discharge water, liquid or water-borne wastes into a drainage system with which they are connected.



## THE COMMONWEALTH OF MASSACHUSETTS

Supervision of Plumbing (State Board of Registration of Plumbing, Sec. 4, 8 Chapter 142 General Laws, Ter. Ed.) as Related to the State Department of Public Health

## RULES AND REGULATIONS

## RELATIVE TO THE SUPERVISION OF PLUMBING

(See Page 225, Section 7)

## BACK AIR PIPES, VENTS, ETC.

**SECTION 7.** All branches of soil or waste pipe, if more than twenty feet in developed length, shall be extended through the roof undiminished in size or re-vented into the main vent system. All connections on lead waste and back air pipes and of lead pipes to brass ferrules and soldering nipples shall be full size wiped soldering joints. Traps shall be protected from siphonage or air pressure by iron, lead, brass or copper air pipes of a size not less than the waste pipes they serve. Continuous system shall be used and back air pipes shall not be connected to the trap or branched into the waste pipe except where a continuous vent is not practicable. Back air pipes shall enter the waste pipe within twenty-four inches measured horizontally of the trap and shall be a continuation of the waste pipe. Air pipes for water closet traps shall be of 2" internal diameter if for not more than three fixtures and less than thirty-five feet in length; if for more than three fixtures or more than thirty-five feet in length, they shall be of 3" internal diameter. Air pipes shall run as direct as practicable and if one and one-half inches in diameter shall not exceed thirty feet in length. Two or more air pipes may be connected together or with a vent pipe, but, in every such case the connection shall be above the top of the fixture.

The traps for the upper fixtures on a line of soil or waste pipe if within five feet horizontal developed length of the stack and the outlets of which connect independently to the stack shall not require a special air pipe

unless the outlets are branched into the stack more than 18 inches below the floor line, or if the waste pipes from said traps are less than 3 inches in diameter and have more than  $\frac{1}{4}$  inch per foot pitch. Diameters of vent pipes shall be not less than 2 inches for main vents through less than seven stories, three inches for water closets on more than three floors and for other fixtures in more than seven stories. All vent and air pipes shall be at least four inches in diameter before passing through the roof. Vent lines shall be connected at the bottom with a soil or waste pipe or with a drain, in such manner as to prevent accumulation of rust scale and properly to drip the water of condensation. Offsets shall be made at an angle of not less than forty-five degrees. Drain, soil, waste and vent pipes shall be supported at least every eight feet on horizontal runs, and at least once to every story on vertical lines. In buildings where a series of bathrooms or kitchens are located directly over each other and have a common soil or waste pipe the back air pipe required shall be a vent line connecting with each outlet branch close to the water closet connection or outlet from the sink trap, each branch vent to connect to vent line above the top of the highest fixture on each floor, the vent line to connect to main vent line above the top of the highest fixture in the building. In the case of batteries of water closets, the special air pipe from each trap may be omitted, provided that the soil or waste pipe, undiminished in size for batteries up to and including four such water closets is continued to a point above the roof or re-vented into the main soil pipe system above the top of the uppermost fixture. Stall urinals and floor drains may have the same system of battery ventilation, providing the waste pipe is one inch

## RULES AND REGULATIONS

larger than the traps of the fixtures they serve. The waste pipes from urinals shall be the size of the discharge opening in urinal and in no case shall it be less than two inches in diameter, unless wall hung, and in such case an inch and a half trap may be used.

Plumbing fixtures on the top floor level, in relation to the stack into which they enter, may enter into not less than a 3" soil or waste stack without requiring any other vent than the continuation of the soil or waste stack as vent system above the highest fixture; provided that all such fixtures shall enter said stack independently; that the waste pipe from said fixtures shall have a pitch of not more than  $\frac{1}{4}$ " per foot; that the traps from said fixtures shall be placed not more than five feet from the soil or waste stack (developed length) and that if a 3" stack is used it shall connect into not less than a 4" soil or waste pipe.

A 3" soil or waste stack shall be sufficient for not more than two bath tubs, two water closets, two lavatories and two sinks or sink and tray combinations provided that all fixtures are vented except those entering the soil stack or waste pipe at the highest point on said pipe and that said stack shall connect into not less than a 4" soil or waste pipe.

## Unit Schedule for Above Installations

1 WATER CLOSET	6 UNITS	1 LAVATORY	1 UNIT
1 KITCHEN SINK	1½ "	1 BATHTUB	2 UNITS
1 LAUNDRY TRAY	3 "	1 COMBINATION FIXTURE	3 UNITS
1 URINAL	3 "	1 SHOWER BATH	3 UNITS
1 FLOOR DRAIN	3 "	1 SLOP SINK	4 UNITS
1 WATER CLOSET, LAVATORY, BATHTUB OR SHOWER			

Any combination of the fixtures contained in the foregoing (Unit Schedule) excluding urinals, not exceeding 22 units, may be used on a 3" soil or waste stack, as provided above.

All garbage disposal appliances connected to a plumbing system shall be connected to the waste or soil pipe independent of any other fixture with not less than a 2" waste pipe and shall be vented as per above.

## Schedule of Back Air Pipes and Vents

## For Fixtures

FIXTURES	SIZE OF PIPE (INCHES)	GREATEST LENGTH ALLOWED (FEET)	MAXIMUM NUMBER OF FIXTURES
BATHS, SINKS, BASINS, URINALS)	1½	30	3
SINK AND TRAY COMBINATION)	2	70	9
	3	70	21
WATER CLOSETS OR SLOP SINKS)	2	35	3
	3	70	9

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 6/11/35, amended 8/6/40, 2/11/46, 6/14/49.



*Repair of leaks* shall mean such repairs as are necessary to protect property and public health but do not involve any rearrangements or change in plumbing or of any pipes or fixtures.

*Size and length* is the nominal size unless otherwise stated by which pipe or tubing is commercially designed. The developed length of a pipe is its length along the center line of pipe and fittings.

*Soil pipe* is any pipe which conveys the discharge of water closets or fixtures having similar functions with or without the discharges from other fixtures.

*Special waste pipe* or indirect waste pipe is any pipe or fitting which does not connect directly with a house drain or soil stack.

*Stack* is a general term for the vertical main of a system of soil, waste or vent piping.

*Trap* is a fitting or device so designed and constructed as to provide a liquid seal which will prevent the back passage of air without materially affecting the flow or sewage or waste water through it.

*Trap seal* is the vertical distance between the crown weir and the dip of the trap.

*Vent system* is pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

*Waste pipe* is any pipe which receives the discharge of any fixture, except water closets or similar

fixtures and conveys the same to the house drain, soil or waste stack. When such pipe does not connect directly with a house drain or soil stack, it is an indirect waste.

*Water service pipe* is the pipe from the water main to the building served.

*Water distribution pipe* is one which conveys from the water supply service pipe to the plumbing fixtures and other outlets.

*Nothing in these rules and regulations* shall be construed as applying to the business of steam fitting, refrigeration, heating and ventilating or gas fitting beyond the point where any connection is made with the water distribution system carrying water for drinking or culinary purposes or the waste pipes carrying wastes or sewage or the vent system. Such connection shall be made subject to the approval and inspection of the plumbing inspectors.

#### PENALTIES

Every person violating any provision of sections one to seventeen inclusive, or any ordinance, by-law, rule or regulation shall be punished by a fine not exceeding fifty dollars.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 6/11/35, amended 8/6/40, 2/11/46.



# The Commonwealth of Massachusetts

## THE DIVISION OF FISHERIES AND GAME

### RULES AND REGULATIONS

#### RELATIVE TO THE OPERATION OF PLANTS FOR THE PURIFICATION OF SHELLFISH PROMULGATED UNDER THE PROVISIONS OF GENERAL LAWS, CHAPTER 130 AS AMENDED BY CHAPTER 598 OF THE ACTS OF 1941

1. All shellfish treatment plants shall be kept under adequate supervision by a qualified chemist or bacteriologist at all times, and no shellfish shall be taken therefrom until approved for release by the person in charge after treatment as provided in the following rules and regulations:

2. No shellfish shall be accepted for treatment at a shellfish treatment plant except from areas approved for this purpose by the Department of Public Health. A detailed description in writing of all areas for which it is proposed to grant master diggers' permits to take shellfish for treatment purposes shall be filed with the Department by the Director of the Division of Marine Fisheries at least one week before such permits are to be granted. The Department reserves the right to reject the taking of shellfish from any area from which, in its opinion, the shellfish are unfit for treatment purposes and shall so notify the Director. The person in immediate charge of the shellfish treatment plant or his assistant shall inspect all containers of raw shellfish upon their arrival at the plant and see that they contain the quantity stated on the master digger's reports.

3. Storage compartments shall be provided for untreated shellfish, and all such shellfish shall be kept wholly separate from treated shellfish. The said compartments shall be under the supervision of the person in charge of the plant. A separate entrance shall be provided for the untreated shellfish. All shellfish shall be handled and stored under such conditions as will keep them alive. If the treated shellfish are not called for within 24 hours after release, the person in charge shall forthwith notify the Division of Marine Fisheries for such action as that Division may care to take.

4. All Shellfish shall before treatment be thoroughly washed or hosed either with sterile sea water or water from some other source approved by the Department until all foreign matter is removed. All shellfish shall again after treatment be thoroughly washed or hosed with water taken from a source approved by the Department. In washing or dousing the shellfish in chlorinated water, the water shall contain throughout this process at least 0.5 of a part of available chlorine per million.

5. All shellfish shall be thoroughly culled and inspected by the master digger or his agent to the satisfaction of the person in charge before filling the containers used for treatment purposes, and all shellfish shall again be thoroughly culled and in-

spected after treatment. All dead shellfish or shellfish in broken or cracked shells shall be destroyed. If the culling and inspection of the shellfish are not carried on to the satisfaction of the person in charge of the shellfish treatment plant, he may hold the shellfish and may request a coastal warden to destroy such shellfish. The person in charge of the shellfish treatment plant shall be held responsible for suitable culling and inspection and the rejection of dead shellfish or shellfish in broken or cracked shells.

6. Containers used in the treatment process shall be filled under the supervision of the person in immediate charge of the shellfish treatment plant, and the containers shall not be filled with shellfish to a depth of more than 8 inches. In filling the containers a clearance of at least one inch shall be left between the upper layer of shellfish and the upper rim of the container. Containers used for treatment purposes shall not be used for any other purpose, and no containers or other equipment used on the flats shall be placed in the treatment tanks.

7. When shellfish are taken from several contaminated areas for treatment purposes, those taken from each separate area shall be treated in separate treatment tanks when practicable but, if necessary, lots from different areas may be separated by wire screen partitions.

8. All water in shellfish treatment tanks shall be subjected to chlorine treatment, and no shellfish shall be released from the treatment plant until the same have been treated for at least 24 hours, and for a longer period, if the scores of the raw shellfish are 140 or over, in water which shall have been sterilized by chlorine and contain at least 0.5 of a part of available chlorine per million parts of water in the tanks for a period of 15 minutes after application, and the water shall be maintained in a sterile condition throughout the entire treatment period. Each treatment tank shall be filled with sea water from the usual source at least twice during the treatment period of each lot of shellfish. Determinations of the amount of dissolved oxygen in the water in the treatment tanks shall be made in order to ascertain that oxygen to the extent of at least 30% of saturation is always present. Two or more representative samples of each lot of raw and of each lot of treated shellfish shall be examined for members of the coli-aerogenes group. The bacteriological examination shall be made and results shall be expressed according to the standard methods proposed by the Committee of the American Public



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH  
RULES AND REGULATIONS

Relative to the Operation of Plants for the Purification of Shellfish Promulgated Under the Provisions of General Laws, Chapter 130 as amended by Ch. 598 of the Acts of 1941

The Department of Public Health, acting under the authority of Chapter 130 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 598 of the Acts of 1941, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations, as amended, relative to the operation of plants for the purification of shellfish.

1. All shellfish treatment plants shall be kept under adequate supervision by a person qualified to the satisfaction of the Department of Public Health at all times, and no shellfish shall be taken therefrom until approved for release by the person in charge after treatment as provided in the following rules and regulations:

2. No shellfish shall be accepted for treatment at a shellfish treatment plant except from areas approved for this purpose by the Department of Public Health. A detailed description of all areas from which shellfish may be taken for purification purposes shall be filed, from time to time, with the Division of Marine Fisheries, Department of Conservation. The Department reserves the right to reject the taking of shellfish from any area from which, in its opinion, the shellfish are unfit for treatment purposes and shall so notify the Director of the Division of Marine Fisheries. The person in immediate charge of the shellfish treatment plant or his assistant shall inspect all containers of raw shellfish upon their arrival at the plant and see that they contain the quantity stated on the master digger's reports.

3. Storage compartments shall be provided for untreated shellfish, and all

such shellfish shall be kept wholly separate from treated shellfish. The said compartments shall be under the supervision of the person in charge of the plant and adequate measures shall be taken to prevent the removal of any untreated shellfish. A separate entrance shall be provided for the untreated shellfish. All shellfish shall be handled and stored under such conditions as will keep them alive. All untreated shellfish upon receipt at the plant shall be promptly treated. If the treated shellfish are not called for within 12 hours after release, the person in charge shall forthwith notify the Division of Marine Fisheries for such action as that Division may care to take.

4. All shellfish shall before treatment be thoroughly washed or hosed either with sterile sea water or water from some other source approved by the Department until all foreign matter is removed. All shellfish shall again after treatment be thoroughly washed or hosed with water taken from a source approved by the Department. In washing or dousing the shellfish in chlorinated water, the water shall contain throughout this process at least 20 parts per million of available chlorine.

5. All shellfish shall be thoroughly culled and inspected by the master digger or his agent to the satisfaction of the person in charge before filling the containers used for treatment purposes, and all shellfish shall again be thoroughly culled and inspected after treatment. All dead shellfish or shellfish in broken or cracked shells shall be destroyed. If the culling and inspection of the shellfish are not carried on to the satisfaction of the person in charge of the

## RULES AND REGULATIONS

shellfish treatment plant, he may hold the shellfish and may request a coastal warden to destroy the same or make such other disposition as the coastal warden may consider advisable. The person in charge of the shellfish treatment plant shall be held responsible for suitable culling and inspection and the rejection of dead shellfish or shellfish in broken or cracked shells.

6. Containers used in the treatment process shall be filled under the supervision of the person in immediate charge of the shellfish treatment plant, and the containers shall not be filled with shellfish to a depth of more than 8 inches. In filling the containers a clearance of at least one inch shall be left between the upper layer of shellfish and the upper rim of the container. Containers used for treatment purposes shall not be used for any other purpose, and no containers or other equipment used on the flats shall be placed in the treatment tanks.

7. When shellfish are taken from several contaminated areas for treatment purposes, those taken from each separate area shall be treated in separate treatment tanks when practicable but, if necessary, lots from different areas may be separated by wire screen partitions.

8. All water in shellfish treatment tanks shall be subjected to chlorine treatment, and no shellfish shall be released from the treatment plant until the same have been treated for at least 24 hours, and for a longer period, if the scores of the raw shellfish are 140 or over, in water which shall have been sterilized by chlorine and contain at least 0.5 of a part of available chlorine per million parts of water in the tanks for a period of 15 minutes after application, and the water shall be maintained in a sterile condition throughout the entire treatment period. Each treatment tank shall be filled with sea water from the approved source at least twice during each 24 hour treatment period of each lot of shellfish. Determinations of the amount of dissolved oxygen in the water in the treatment tanks shall be made in order to ascertain that

oxygen to the extent of at least 30% of saturation is always present. Two or more representative samples of each lot of raw and of each lot of treated shellfish shall be examined for members of the coli-aerogenes group. The bacteriological examination shall be made under the shell water scoring method. Records containing the following information shall be available at the treatment plant at all times:

- a. Area by name or number where shellfish were dug and permit number of master digger.
- b. Quantity of shellfish in tank.
- c. Time of starting treatment.
- d. Time of ending treatment.
- e. Scores of raw shellfish before treatment.
- f. Scores of treated shellfish.
- g. Time and quantities of chlorine applied.
- h. Available chlorine determinations.
- i. To whom delivered.

No shellfish shall be removed from the treatment tanks until the 24 hour results of the analyses of the raw shellfish are read.

9. The results of the analyses of all samples and a copy of the records required under Rule 8, signed by the person in charge, shall be sent to the Department of Public Health once a week for each day that the plant is in operation.

10. Treatment plants shall be used for no purpose other than the handling of shellfish from areas determined to be contaminated under Section 74 of Chapter 130 of the General Laws as amended by Chapter 598 of the Acts of 1941 or corresponding provisions of earlier laws. Material foreign to this particular business shall not be stored within the plant. No person not an employee of the shellfish treatment plant or a representative of the Department of Public Health or Department of Conservation shall be allowed access to the treatment plant or to the laboratory except by permission of the person in charge. All shellfish treatment plants shall be provided with suitable



## RULES AND REGULATIONS

toilet facilities, which shall be maintained in a sanitary condition.

11. A portion of the plant may be used for shucking purposes, and the operation of this portion of the plant shall be under the supervision of the person in charge of the plant. Such a shucking plant shall be constructed and operated in accordance with the "Manual of Recommended Practice for Sanitary Control of the Shellfish Industry Recommended by the United States Public Health Service 1946".

12. Shellfish shall be accepted for treatment purposes only in clean containers made of wood or rust-proof material. All containers shall be kept clean and free from foreign matter. Bags shall not be used for transporting shellfish to the treatment plant nor for removing released shellfish from the plant. Only non-returnable clean containers shall be used for shucked shellfish.

13. All containers of treated shellfish shall before being released from a shellfish treatment plant be suitably tagged with a uniform tag in substantial accordance with the "Manual of Recommended Practice for Sanitary Control of the Shellfish Industry Recommended by the United States Public Health Service 1946" and the tag shall contain a number given the treatment plant by the Director of the Division of Marine Fisheries, the name of the master digger, the quantity of shellfish and the date the shellfish were released from the treatment plant.

14. All other rules and regulations prepared by this Department or by the Director of the Division of Marine Fisheries relative to shellfish shall be followed in the operation of all shellfish treatment plants. The Department reserves the right to change without notice the above rules and regulations from time to time as occasion may require.

Adopted by the Massachusetts Department of Public Health on 6/5/28 and amended October 7, 1941, May 10, 1949.





Health Association on Standard Methods for the Bacteriological Examination of Shellfish and adopted by the Association. Records containing the following information shall be available at the treatment plant at all times:

- a. Area where shellfish were dug and permit number of master digger.
- b. Quantity of shellfish in tank.
- c. Time of starting treatment.
- d. Time of ending treatment.
- e. Scores of raw shellfish before treatment.
- f. Scores of treated shellfish.
- g. Time and quantities of chlorine applied.
- h. Available chlorine determinations.
- i. To whom delivered.

No shellfish shall be removed from the treatment tanks until the 24 hour results of the analyses of the raw shellfish are read.

9. The results of the analyses of all samples and a copy of the records required under Rule 8, signed by the person in charge, shall be sent to the Department of Public Health once a week for each day that the plant is in operation.

10. Treatment plants shall be used for no purpose other than the handling of shellfish from areas determined to be contaminated under Section 70 of Chapter 130 of the General Laws as amended by Chapter 598 of the Acts of 1941 or corresponding provisions of earlier laws. Material foreign to this particular business shall not be stored within the plant. No person not an employee of the shellfish treatment plant or a representative of the Department of Public Health or Department of Conservation shall be allowed access to the treatment plant or to the laboratory except by permission of the person in charge. All shellfish treatment plants shall be provided with suitable toilet facilities.

11. A portion of the plant may be used for shucking purposes, and the operation of this portion of the plant shall be under the supervision of the person in charge of the plant. Such a shucking plant shall be construed and operated in accordance with the Public Health Service Minimum Requirements for Endorsement of State Shellfish Control Measures and Certifications for Shippers in Interstate Commerce.

12. Shellfish shall be accepted for treatment purposes only in clean containers made of wood or rust-proof material. All containers shall be kept clean and free from foreign matter. Bags shall not be used for removing released shellfish from the plant. Only non-returnable clean containers shall be used for shucked shellfish.

13. All containers of treated shellfish shall before being released from a shellfish treatment plant be suitably tagged with a uniform tag in substantial accordance with the U.S. Public Health Service Minimum Requirements for Endorsement of State Shellfish Control Measures and Certifications for Shippers in Interstate Commerce, which tag shall contain a number given the treatment plant by the Director of the Division of Marine Fisheries, the name of the master digger, the quantity of shellfish and the date the shellfish were released from the treatment plant.

14. All other rules and regulations prepared by this Department or by the Director of the Division of Marine Fisheries relative to shellfish shall be followed in the operation of all shellfish treatment plants. The Department reserves the right to change the above rules and regulations from time to time as occasion may require without notice.

Adopted by Massachusetts Department of Public Health on 6/5/28 and amended October 7, 1941.



# The Commonwealth of Massachusetts

## DIVISION OF MARINE FISHERIES

### RULES AND REGULATIONS

#### RELATIVE TO THE REGULATIONS PROMULGATED BY THE DIRECTOR OF THE DIVISION OF MARINE FISHERIES.

Permits and certificates issued by the Division of Marine Fisheries and to the condition and operation of establishments operating under authority of such permits and certificates.

Pursuant to the provisions of the General Laws, Chapter 130, Section 46, 75, 80 and 89, as amended by Chapter 598 of the Acts of 1941, the following rules and regulations are hereby made and promulgated by the Director of the Division of Marine Fisheries governing the form, use and contents of permits and certificates for the commercial handling and storage of fish, including shellfish and crustacea, and the products thereof. The following rules and regulations apply to all permits and certificates issued under the authority cited above, and the titles are merely for index purposes.

#### GENERAL RULES AND REGULATIONS

1. For the purpose of these regulations, unless the context otherwise requires, the following words shall be deemed to have the following meanings:

"Clean Areas," when applied to shellfish areas, any area not a contaminated area.

"Contaminated Areas," when applied to shellfish areas, any area so determined by the Department of Public Health under authority of General Laws, Chapter 130, Section 74, as amended, or corresponding provisions of earlier laws.

"Master Digger," an individual who digs or takes shellfish from an area declared contaminated for purification at an approved Purification Plant under authority of a permit issued under General Laws, Chapter 130, Section 75, as amended.

"Person," any individual, partnership, association or corporation.

"Shellfish," shall include oysters, mussels, soft-shelled clams, quahaugs, razor fish or razor clams and, when not specifically excluded, scallops.

"Subordinate Digger," an individual who digs or takes shellfish from an area declared contaminated for a master digger under authority of a permit issued under General Laws, Chapter 130, Section 75, as amended.

"Truck," any truck, trailer, station wagon, pleasure car, or other vehicle.

2. No commercial permit or certificate will be issued by the Director unless an application therefor has been made upon blanks supplied by him containing such information as is requested therein, and signed by the applicant under the penalties for per-

jury, nor unless such application is accompanied by the proper fee therefor. Every such permit or certificate will be issued conditional upon the truth or accuracy of the facts contained in the application.

3. No permit or certificate issued by the Director shall be valid until signed by the person to whom issued.

4. All required fees shall be submitted in the form of checks or postal money orders, made payable to the Commonwealth of Massachusetts. Cash shall be used therefor only when the application is made in person.

5. The holder of all fish and shellfish certificates issued under the provisions of General Laws, Chapter 130, as amended, shall, in addition to all other requirements, maintain the sanitary standards required by State and Federal public health authorities for the handling of fish and shellfish as are pertinent thereto.

6. The holder of any certificate authorizing the digging or taking of shellfish shall conform to all valid rules and regulations promulgated by a city or town under authority of law.

7. The holder of a bed certificate or bait permit shall take shellfish from only those areas specified either on the certificate or permit or on an attached rider issued as part of the certificate or permit.

8. No person holding any permit or certificate issued by this Division shall purchase or receive shellfish shucked or in the shell other than from a person holding a proper certificate issued by the Director.

#### ESTABLISHMENTS

9. Walls and ceilings shall be clean and free from loose materials and, where practicable, painted with a light colored paint of good body.

10. Floors shall be so constructed that they may be easily and thoroughly cleaned and the drainage of all water therefrom shall be complete and rapid.

11. Lighting and ventilation shall be adequate in all parts of the building in use. Windows shall be kept clean and in repair. Cellars or basements shall not be used for the handling of fish, fish products or shellfish, unless approved by the Director.

12. All rooms, especially toilets and washrooms, shall be of an approved design and shall be maintained in a sanitary condition. Signs shall be displayed in a conspicuous place near toilets to the effect



that the hands must be thoroughly washed before starting or resuming work. If a privy is necessary, it shall be of an approved sanitary type properly located.

13. In all shellfish and lobster-crabmeat establishments, the space used for shucking shall be effectively separated from the space used for washing or packing and whenever practicable, these operations shall be carried on in separate rooms.

14. Lavatories with an adequate supply of water shall be provided together with soap. Common towels are prohibited.

15. The water supply in establishments shall be adequate for all purposes, free from pollution and from an approved source. There shall be an adequate supply of hot water available for cleaning the establishment and equipment. No cross connections with unapproved water supplies shall be permitted.

16. Inside of buildings shall be kept free of flies and the entire premises free of rodents, insects and all other vermin.

17. Drying yards for fish shall be as free from dust as possible.

#### EQUIPMENT AND OPERATION

18. All equipment shall be of an approved type and comply with the State and Federal rules and regulations and minimum requirements.

19. Filleting tables, scale tables, packing tables, benches and all other equipment of a similar nature shall be kept in a sanitary condition and all of such parts, where it is practicable, shall be kept covered with paint of good body. No part of such equipment shall be allowed to become water-soaked to a degree that it is unsanitary. Cutting boards shall be designed or used in such a way as to prevent the accumulation, particularly on the underside, of slime, water or other filth. Wherever practicable, all tables and benches shall be covered with non-corrosive metal overlapping the edges and the fastening holes shall be soldered and smooth. Conveyors and all other equipment shall be of a design that permits easy and thorough cleaning. While in use they shall be kept at all times as clean as possible and after completion of a run of work must be thoroughly cleaned.

20. Carts, boxes and any equipment whether within or without the establishment which come in contact with seafoods or waste shall be maintained in a clean and sanitary condition, and where practicable, painted.

21. Barrels or any other receptacles for waste or gurry shall be watertight, kept covered and shall be thoroughly cleaned after each emptying. All gurry shall be removed from the premises at least once a day. Gurry trucks in use on the premises shall be watertight in order to prevent dripping.

22. Boxes, barrels, cartons, cans and any other receptacles or materials used for packing seafoods for delivery shall be maintained in a clean and sani-

tary condition. Only new and previously unused containers bearing the packer's identification number shall be used to pack shucked shellfish and lobster or crabmeat.

23. All fish stored outside of the establishment shall at all times be iced and kept covered with canvas or some equally satisfactory material, and all fish in transit to or from the establishment shall be kept similarly covered.

24. Cutting knives and all other tools used in contact with seafood shall be cleansed by hot water and soap at sufficiently frequent intervals to keep them hygienically clean.

25. Refrigeration rooms or ice boxes for the retention of seafoods shall be so constructed as to permit easy and thorough cleaning and must be kept clean.

26. The outside of any soiled boxes, pails, cans, containers or other equipment of any description shall not be allowed to come in contact with the surfaces of any other such apparatus or equipment which is required to be kept clean.

27. Brine used for washing fish or fillets shall be cleaned or changed frequently enough so that it is at all times clean and cannot contaminate the food products.

28. No shellfish shall be stored or floated in, cleansed or brought in contact with water that is polluted or from an area that has been determined by the Department of Public Health to be contaminated, or that is of less than the usual salinity from which such shellfish are taken. Only establishments and equipment which are in accordance with State and Federal rules and regulations and minimum requirements and have been approved by the Director shall be used for storing, floating or cleaning shellfish.

29. Fish shall not be stored on floors, wharves or other places not maintained in a sanitary condition.

#### PERSONNEL

30. All personnel shall keep clean and wear clean clothing. Women handling seafoods or packing materials shall wear a cap or hair net, completely confining the hair in such a way that no loose hairs may fall.

31. No person who has any communicable disease or any open lesion on the hands, arms or face shall be employed or retained.

32. No smoking or spitting while handling fish or fish products or materials to be used in packing the same shall be permitted.

#### MASTER DIGGER—SUBORDINATE DIGGER—BAIT DIGGER

33. No person who is under twenty-one years of age shall be eligible for a Master Digger's permit. No person who is under seventeen years of age shall



be eligible for a Subordinate Digger's permit or a Bait permit.

34. Each applicant, before receiving a Master Digger's permit, must file with the Director of Marine Fisheries a surety company's bond in the sum of \$500.00 payable to the Division of Marine Fisheries and conditioned so as to insure faithful fulfillment of all duties and obligations imposed by law and regulation upon Master Diggers. Any violation of said conditions will be reported forthwith to the bonding company.

35. (As amended.) No person holding a Subordinate Digger's permit or Bait permit shall at the same time hold any other type of shellfish certificate or permit, and no person holding a Master Digger's permit, Subordinate Digger's permit or Bait permit shall buy, sell, transport or otherwise traffic in shellfish from clean areas.

36. The holder of a Master Digger's permit or a Subordinate Digger's Permit is authorized to take shellfish from only those areas specified either on the permit or on an attached rider issued as part of the permit, which areas have been approved by the Department of Public Health as satisfactory for the taking of shellfish for purification purposes.

37. No shellfish shall be dug or taken under authority of a Master Digger's permit, Subordinate Digger's permit or Bait permit, earlier than one-half hour before sunrise nor later than one-half hour after sunset. All shellfish taken under authority of a Master Digger's permit shall be loaded into a truck for transportation to the purification plant not later than one-half hour after sunset. However, upon prior application therefor, the Director may authorize the taking of shellfish at other hours if he deems that unusual conditions make it advisable.

38. Unless otherwise specifically authorized in writing therefor by the Director, only one truck or power boat shall be used at any one time by a Master Digger for receiving or transporting shellfish taken from contaminated areas under authority of his permit. While such shellfish are en route to the purification plant and before they have reached such plant, every such truck, while containing such shellfish shall display in a manner designated by the Director a red card which shall bear the permanent number of the Master Digger by whom such vehicle is being used. Such truck shall follow the route to the purification plant designated by the Director or his representative.

(a) Power boats may be used only when prior written authority has been received therefor from the Director.

39. The holder of a Master Digger's permit not actively or personally engaged in operating thereunder shall surrender his permit to the Division of Marine Fisheries.

40. A Master Digger may employ one supervisor, a transportation agent and Subordinate Diggers to assist him in operating under his permit, but every such employee must be approved by the Director and hold written authorization from him for such employment.

41. Operations under a Master Digger's permit shall at all times be supervised in person by the Master Digger or his authorized supervisor. If the Master Digger has two groups of employees operating in different areas, then one group must be under the direct supervision of the Master Digger; the other group must be under the direct supervision of the authorized supervisor.

42. When dual operations are being conducted by a Master Digger, all shellfish not immediately placed in the transporting conveyance shall remain on the beach at a place previously approved in writing by the coastal warden in whose district such operations are conducted as a convenient place of loading and shall be under constant observation of the Master Digger or his authorized supervisor until called for by the truck used by the Master Digger for transporting the shellfish to the plant.

43. In all operations under a Master's Digger's permit or Subordinate Digger's permit, only standard half-bushel containers or their approved equivalent may be used.

44. All shellfish obtained under authority of a Master Digger's permit shall be immediately transported to a purification plant. However, it shall not be a violation of this section if the Master Digger holds shellfish for later delivery to the plant, provided he has first obtained permission to do so from the Director, Chief Coastal Warden or local Coastal Warden.

45. A Master Digger, or his authorized supervisor, shall each day before the beginning of operations, issue to each Subordinate Digger employed by him an authorization card, supplied by the Director, indicating that the holder thereof is so employed and at the close of each day's operations he shall collect such authorization cards. Each said Master Digger or supervisor shall keep an accurate record of the true name of each Subordinate Digger employed, together with the registration number as appearing in such Subordinate Digger's permit. This record shall be available for inspection by any officer of the Division, and shall be retained for sixty days.

46. The holder of a Master Digger's permit shall keep an accurate account, in books of record furnished by the Division of Marine Fisheries, of all operations conducted under authority of such permit. The books of record furnished by the Division shall be arranged for triplicate record, and shall be and remain the property of the Division. Such books of record shall, upon demand, be immediately surrendered to any officer of the Division of Marine Fisheries for inspection or investigation.

47. Complete and accurate entries in such books of record shall be made at the time the shellfish taken under authority of the Master Digger's permit are transferred from the flats into the truck for transportation to a purification plant. In any day in which no shellfish has been taken under said authority an entry shall be made to that effect.



48. The pages of such books of record shall not be removed under any circumstances except as hereinafter provided.

(a) Upon delivery to the purification plant, the shellfish shall be checked and an entry thereof made on the triplicate record by the person in charge or some person responsible to him, and the original white sheet shall then be removed at the plant.

(b) The transparent sheet must always remain in the book as a part thereof.

(c) On Monday of each week, the yellow sheets containing the record of the operation of the previous week are to be removed by the Master Digger and delivered or mailed to the office of the Division of Marine Fisheries so as to reach that office not later than the following Tuesday. Such yellow sheets when received at the office of the Division shall constitute a report of operations under the Master Digger's permit for the week covered by such sheets.

49. All shellfish delivered to an approved purification plant by a Master Digger must be called for within twenty-four hours after the release of such shellfish from the purification process.

50. No quahaugs are to be taken by a Master Digger or his employees when the air temperature falls below 30° F.

51. The holder of a Subordinate Digger's permit shall not engage in the shellfishing unless he:

(a) Is so engaged under the direct and personal supervision of the Master Digger by whom he is employed or the authorized supervisor of such Master Digger.

(b) Has in his possession an authorization card signed by the Master Digger by whom he is employed.

(c) Wears and displays conspicuously the Subordinate Digger's button furnished by the Division.

52. No Subordinate Digger shall remove shellfish from the flats where taken, nor transport any shellfish from any area determined by the State Department of Public Health to be contaminated, unless prior thereto he has been approved in writing by the Director as a proper person to act as supervisor or transporting agent for a Master Digger.

53. No shellfish obtained under authority of a Bait permit shall be sold unless the container bears a red label or tag stating in heavy black letters at least one inch in height the following: DANGER—FROM CONTAMINATED AREAS—FOR BAIT ONLY. The containers of such shellfish held in storage shall be marked in the same manner required for the selling of shellfish for bait.

54. A report of the amount of shellfish taken each week under the authority of a Bait permit must be filed with the Division not later than Wednesday of the following week.

55. All shellfish taken under a Bait permit must be stored in a suitable container and in a place approved by the Director.

56. All rules and regulations, or parts thereof, heretofore promulgated, which are in conflict with the provisions of the foregoing rules and regulations, are hereby expressly repealed.

April 13, 1942

APPROVED FOR SANITARY REQUIREMENTS:  
By the Dept. of Public Health



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE ENRICHMENT OF FLOUR, WHITE BREAD AND ROLLS.

The Department of Public Health, acting under the authority of Chapter 444 of the Acts of 1948, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations:

#### 1. STANDARDS OF ENRICHMENT.

"Enriched Bread" shall contain in each pound the following enriching ingredients in quantities within the limits herein specified:—

Thiamine, not less than 1.1 milligrams and not more than 1.8 milligrams.

Riboflavin, not less than 0.7 milligrams and not more than 1.6 milligrams.

Niacin or niacin amide, not less than 10.0 milligrams and not more than 15.0 milligrams.

Iron, not less than 8.0 milligrams and not more than 12.5 milligrams.

Calcium (optional), not less than 300.0 milligrams and not more than 800.0 milligrams.

"Enriched Flour" shall contain in each pound the following enriching ingredients in quantities within the limits herein specified:—

Thiamine, not less than 2.0 milligrams and not more than 2.5 milligrams.

Riboflavin, not less than 1.2 milligrams and not more than 1.5 milligrams.

Niacin or niacin amide, not less than 16.0 milligrams and not more than 20.0 milligrams.

Iron, not less than 13.0 milligrams and not more than 16.5 milligrams.

Calcium (optional), not less than 500.0 milligrams and not more than 625.0 milligrams, except in the case of self-rising flour which may contain not less than 500.0 milligrams and not more than 1500.0 milligrams.

Iron and calcium may be added only in forms which are harmless and assimilable. The enriching ingredients may be added only in a harmless carrier which does not impair the enriched flour or bread, such carrier to be used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the flour or bread.

#### 2. LABELING.

Each package, bag, sack, barrel or other container of enriched flour shall bear a label containing in prominent type and in a prominent position the word "enriched". The label upon all packages intended for retail distribution shall also specify the actual quantities of the enriching ingredients in terms of

milligrams per pound or in terms of minimum daily requirements. Such label shall conform to the requirements of the Federal Security Agency for shipment of such products in interstate commerce.

Enriched bread, other than white bread or rolls which are sold directly to the consumer by the manufacturer thereof, shall be wrapped and labeled in prominent type and in a prominent position upon the wrapper with the word "enriched" together with a statement of the actual enriching ingredients in terms of milligrams per pound or in terms of minimum daily requirements. Such label shall conform to the requirements of the Federal Security Agency for shipment of such products in interstate commerce.

#### 3. ENRICHMENT BY MANUFACTURER OF BAKERY PRODUCTS.

A commercial manufacturer or baker of bread or rolls may at his discretion elect to purchase unenriched flour from a manufacturer or wholesale distributor of such flour, and, if so, shall make written and signed request to such manufacturer or wholesale distributor of flour to purchase unenriched flour. Such commercial manufacturer or baker shall file with the Department of Public Health forthwith a copy of each and every request made to millers or flour distributors for purchases of unenriched flour, and shall further notify said Department forthwith as to any cancellation of such request. Each baker or manufacturer of white bread and rolls shall maintain upon the premises of manufacture complete records showing all deliveries of unenriched flour, together with the quantities delivered and the dates upon which each delivery is received, and shall further maintain daily production or manufacturing records setting forth the quantities of white bread and rolls manufactured. Such baker or manufacturer shall also maintain records of deliveries and usage of enriching ingredients. Each of these records shall be kept on file for a period of two years and shall be made available for immediate inspection upon request by a duly authorized representative of the Department of Public Health. Such baker or manufacturer shall also upon request furnish promptly to said Department specific written information signed and duly sworn as to the purchase, receipt or use of unenriched flour and enriching ingredients, and the method of compliance with the enrichment requirements, covering a stated period.

Each flour distributor and miller receiving written requests from bakers and manufacturers of



white bread and rolls for the purchase of unenriched flour shall maintain a file of such requests. Such flour distributor and miller shall further maintain records of deliveries of unenriched flour to bakers and manufacturers of white bread and rolls located within the Commonwealth. All of these records shall be kept on file for a period of two years and shall be made available for immediate inspection upon request by a duly authorized representative of the Department of Public Health. Such flour

distributor and miller shall also, upon request, furnish promptly to said Department in a written and signed statement, duly sworn, specific information relative to deliveries, over a stated period, of unenriched flour to any baker or manufacturer of white bread and rolls located within the Commonwealth.

Prescribed and established by the Dept. of Public Health at a meeting of its Public Health Council held on November 3, 1948.

# The Commonwealth of Massachusetts

## MILK REGULATION BOARD

### RULES AND REGULATIONS

#### RELATIVE TO ESTABLISHING GRADES OF MILK.

"Rules and Regulations Establishing Grades of Milk, Regulating and Establishing Standards in accordance with the provisions of the General Laws (Ter. Ed.) Chapter 94, Section 13 as amended by Chapter 263 of the Acts of 1933."

#### 1. MILK GRADES.

The following official grades of milk are hereby established:

1. MILK—RAW.
2. MILK—PASTEURIZED.
3. GRADE A MILK—RAW.
4. GRADE A MILK.
5. SPECIAL MILK—RAW.
6. SPECIAL MILK—PASTEURIZED.
7. CERTIFIED MILK—RAW.
8. CERTIFIED MILK—PASTEURIZED.

#### 2. DEFINITIONS.

For the purpose of these rules and regulations the following words and phrases shall, except as otherwise provided, have the following meanings:

**BOTTLE:** A bottle shall be a container conforming to the specifications of Sections 15 and 16 of Chapter 98 of the General Laws.

**CAN:** A can shall be a container conforming to the specifications of Section 18 of Chapter 98 of the General Laws.

**CAP:** Wherever reference is made to a cap that will protect from contamination the pouring lip of a bottle the word "cap" shall mean a cover extending over the top of the bottle and covering the entire pouring lip, or bead, at least to its greatest diameter.

**COLONY:** An isolated growth of bacteria on solid media.

**CONSUMER:** Ultimate consumer.

**DAIRY FARM:** Any place or premises whereat or whereon one or more cows are kept, a part or the whole of the milk (including the cream thereof) obtained from such cow or cows being sold, or exposed or delivered for sale to any person: provided, that such dairy farm, if so required by law, has in possession, or is entitled to receive a certificate of registration, in full force and effect, issued by the Director.

**DIRECTOR:** The Director of the Division of Dairying and Animal Husbandry, of the Department of Agriculture.

**MILK:** The lacteal secretion obtained as the result of the complete milking of one or more healthy cows, excluding any such secretion obtained within fifteen days before and five days after calving, and within such longer period as may be necessary to render the milk practically colostrum-free.

**PERSON:** Person, shall, whenever pertinent, include an association, firm, partnership or corporation.

**SCORE CARD:** Shall refer to "uniform cards for the classification of dairy farms producing milk" as provided for in Section 42, Chapter 6, Acts of 1946.

#### 3. GENERAL LABELLING STANDARDS.

No person shall sell or offer or expose for sale any graded milk unless the container thereof shall have attached thereto a label, tag or cap conspicuously bearing on a clear, plain background the proper grade designation in the exact language designated herein, and in a distinctly contrasting color, or if the cap is made of aluminum or other substance the lettering may be raised or sunk by means of a die, and if such container is a bottle, the grade designation shall be placed upon the cap of the bottle. The grade designation, if placed upon a cap known in the industry as a number 2 cap, shall be placed on the upper half of the cap in an outlined semi-circle not less than one inch in diameter, which shall be reserved exclusively for such grade designation, but no other lettering or other extraneous matter shall be placed in the space reserved for the grade designation. If a smaller cap is used the required labelling may be reduced proportionately. The label or cap shall bear only one of the following grade designations: MILK—RAW; MILK—PASTEURIZED; GRADE A MILK—RAW; GRADE A MILK; SPECIAL MILK—RAW; SPECIAL MILK—PASTEURIZED; CERTIFIED MILK—RAW; CERTIFIED MILK—PASTEURIZED.

The cap or label on the container of such milk may bear the words "Vitamin D" if the milk contained therein lawfully contains 400 U.S.P. units Vitamin D per quart, and if the sale of such milk does not violate any existing law or any rule or regulation lawfully made, and if all milk so sold, or offered or exposed for sale, shall be milk as defined under authority of law. The cap or label shall bear the words "Contains 400 U.S.P. units Vitamin D per quart", together with a statement as to the method or process employed for its introduction.

The term "Homogenized" may be used in connection with the labelling of a grade of milk, and



when used shall mean milk which has been treated in such manner as to insure break-up of the fat globules to such an extent that after 48 hours' storage no visible cream separation occurs on the milk and the fat percentage of the top 100 cc of milk in a quart bottle, or of proportionate volumes in containers of other sizes, does not differ by more than 10 per cent of itself from the fat percentage of the remaining milk as determined after thorough mixing.

Any container of milk may be labelled with the name of a breed of cows (such as Holstein, Ayrshire, Jersey or Guernsey) provided, that all milk in the container so labelled has been obtained exclusively from the breed of cows so specified. (See Section 191 of Chapter 94 of the General Laws, Ter. Ed.) Any container of milk may be labelled with a statement of the name of the state wherein such milk was produced; provided, that all the milk in the container so labelled was produced exclusively in said state. (See Section 13B of Chapter 94 of the General Laws, Ter. Ed.) No false, ambiguous or misleading word, term or design shall appear on any cap or shall be attached to any container of graded milk. All caps to be used on bottles or cans of milk shall be so stored or kept as to protect them from moisture, dust or contamination.

#### 4. GENERAL PROCEDURE FOR ASCERTAINING CONFORMITY WITH BACTERIAL STANDARDS.

A sample of milk taken for the purpose of determining the bacterial count thereof shall be taken only from milk intended for sale or delivery or from milk intended to be pasteurized. If the sample so taken shows upon examination a higher bacterial count than is stated or permitted in the pertinent provisions of these regulations, a written or printed notice of the bacterial count thereof shall be sent within ten days after obtaining the result of such examination to the person from whom the sample was taken or to the person responsible for the condition of such milk. If the inspector of milk, collector of samples, department or board obtaining such sample takes additional samples, within a period of not less than seven days nor more than two months after such notice has been sent, three such samples shall be taken from three different containers at substantially the same time, or, if the milk is obtained from a pasteurization vat prior to pasteurization thereof, samples shall be taken from three different fillings of the vat on the same day or from a single filling on three different days within a period of fourteen days. An excess in bacterial count, over that stated or permitted in the pertinent provisions of these rules and regulations, occurring in a majority of such additional samples so taken, shall constitute a violation of such rules and regulations.

All bacterial counts shall be made by the Standard Plate Methods of the American Public Health Association in effect at the time the examination is made.

#### 5. REGULATIONS AND STANDARDS FOR MILK GRADES.

(a) Milk Raw shall be produced on a dairy farm that complies with all pertinent rules, regulations and minimum requirements legally made or promulgated by the Milk Regulation Board, the Department of Agriculture, the Department of Public Health, or local board of health, in effect at the time of such production, and no portion of such milk shall be drawn from the cow more than 48 hours prior to the delivery of such milk to the consumer, or more than 36 hours if delivered to a receiving station or milk plant. Milk raw shall show a bacterial count of not more than four hundred thousand colonies per cubic centimeter.

When Milk Raw is sold, or offered or exposed for sale, each container thereof shall bear a label or be covered with a cap bearing the words MILK RAW.

(b) Milk Pasteurized shall be Milk Raw, pasteurized in compliance with Section 1 of Chapter 94 of the General Laws (Ter. Ed.), in establishments operated in accordance with the regulations made by the Department of Public Health under authority of Section 48A of Chapter 94 of the General Laws, or the Milk Regulation Board under authority of Chapter 542 of the Acts of 1946, amending Section 16J of Chapter 94 of the General Laws, and such milk shall show a bacterial count of not more than four hundred thousand colonies per cubic centimeter before pasteurization and of not more than forty thousand colonies per cubic centimeter when delivered to the consumer. When Milk Pasteurized is sold, or offered or exposed for sale, each container thereof shall bear a label or be covered with a cap bearing the words Milk Pasteurized and, if in bottles, such caps shall have been affixed duly by means of a machine capper. When bottled, it shall be bottled immediately after pasteurization and only at the place where such milk is pasteurized.

(c) Grade A Milk Raw shall be only milk produced on a dairy farm which has in possession, or is entitled to receive, in addition to a certificate of registration issued by the Director, if so required by law, a printed, written or stamped statement, in full force and effect, signed personally or in facsimile form by the Director, based upon inspections of such dairy farm made by the Director, the Department of Public Health, or local board of health at least twice a year at intervals of not less than five nor more than seven months, and to be physically attached to such certificate, if any, stating that such dairy farm has upon inspection been found to conform, in addition to the requirements for the production, processing, labelling and sale of Milk Raw issued by the Milk Regulation Board or by the local board of health, to the following requirements for the production, processing, labelling and sale of Grade A Milk Raw.

A farm to produce Grade A Milk Raw shall be a dairy farm on which the conditions and methods shall score not lower than "good". Failure to score at that level or bring the conditions and methods to that level will be sufficient reason to refuse a Grade A rating. Such a farm shall have, in addition to



requirements for a Milk Raw farm, sterilizing and washing facilities in the milk room for the washing and sterilizing of all milk handling utensils used on such a farm.

All cows on such dairy farms shall have been tested within twelve calendar months prior to the original inspection and thereafter at intervals of not exceeding twelve months by the tuberculin test under state and federal supervision and found not to react thereto, or shall be part of an accredited tuberculosis-free herd under state and federal supervision, or shall be part of a herd located in a modified accredited area under state and federal supervision, and shall, if so ordered by vote of the members of the Milk Regulation Board, be subject to any type of examination in such manner and under such circumstances as are approved by the Livestock Disease Control Divisions within the several states.

The hair on or near the udders and flanks of such cows shall be kept properly clipped. Udders and teats of all such cows shall be washed and dried immediately prior to beginning the process of milking. A strip cup shall be used and the first streams of milk from each teat shall be segregated from the milk which is offered or intended for sale to any person.

Grade A Milk Raw shall be only natural whole milk from one or more dairy farms lawfully entitled to produce such milk, and when ready for delivery to the consumer shall contain not less than 4% of milk fat and not less than 12.2% of total milk solids.

Each container of Grade A Milk Raw, before leaving the farm on which the said milk is produced, shall be clearly marked so as to be easily identifiable. Each plant where Grade A Milk Raw is received and weighed shall have on hand and available at all times to authorized persons a list of Grade A producers with the producers plant number affixed to the names of all producers qualified for Grade A production.

Grade A Milk Raw shall be delivered to the consumer within forty-eight hours after the earliest time of drawing from the cow any portion thereof, shall show a bacterial count of not more than one hundred thousand colonies per cubic centimeter when delivered to the consumer, and at retail, shall be sold or offered or exposed for sale only in bottles covered with a cap that will protect from contamination the pouring lip of the bottle. Every such cap coming in contact with such milk shall be affixed only by means of a machine capper. Every exposed cap shall bear the words Grade A Milk Raw, the day of the week on which such milk was produced, and the name of the distributor. No such milk shall be bottled later than twenty hours after the earliest time of drawing from the cow any portion thereof.

(d) Grade A Milk shall be only Grade A Milk Raw which has been pasteurized within the commonwealth and in compliance with Section 1 of Chapter 94 of the General Laws (Ted. Ed.) in establishments operated in accordance with the regulations made by the Department of Public Health under authority of Section 48A of said

Chapter 94 of the General Laws (Ter. Ed.) and the regulations of the Milk Regulation Board made under authority of Section 16J of Chapter 542 of the Acts of 1946, and otherwise in accordance with said sections, provided that immediately prior to such pasteurization all apparatus used therefor or therein shall have been thoroughly cleaned and sterilized. No such milk shall be pasteurized later than forty-eight hours after the earliest time of drawing from the cow any portion thereof, and when delivered to the consumer such milk shall show a bacterial count of not more than ten thousand colonies per cubic centimeter, and shall contain not less than 4% of milk fat and not less than 12.2% of total milk solids. Grade A Milk when bottled shall be bottled immediately after pasteurization and only at the place where such milk is pasteurized. The bottles shall be capped immediately after filling in the manner prescribed for capping Grade A Milk Raw, except that the exposed cap shall bear the designation Grade A Milk, the word pasteurized, also state the day of the week on which milk was pasteurized, and the name of the distributor.

(e) Special Milk Raw shall be only milk produced on a dairy farm which has in possession, or is entitled to receive, in addition to a certificate of registration issued by the Director, if so required by law, a printed, written or stamped statement, in full force and effect, signed personally or in facsimile form by the Director, based upon inspections of such dairy farm made by the Director, the Department of Public Health, or local board of health, at least twice a year at intervals of not less than five nor more than seven months, and to be physically attached to such certificate, if any, stating that such dairy farm has upon inspection been found to conform, in addition to the requirements for the production, processing, and labelling and sale of Grade A Milk Raw issued by the Milk Regulation Board or by the local board of health to the following requirements for production, processing, and labelling and sale of Special Milk Raw.

Each container of Special Milk Raw shall bear a label stating the name of the producer of the milk contained therein, the words "Special Milk Raw" and the destination of such milk.

Before any person is engaged as a milker, or is employed in handling Special Milk Raw, he must obtain from the Massachusetts Department of Public Health a certificate stating that on the evidence obtained by the examination of specimens submitted as coming from him he is not a typhoid carrier. A further examination shall be made at least once in twelve months as long as he is employed. No person shall be so engaged or employed at any time who has a sore throat or is suffering from tuberculosis, diarrhea or dysentery or who is a typhoid carrier. A list of all persons employed or engaged as milkers or handlers of Special Milk Raw shall be posted in a conspicuous place on the premises.

Special Milk Raw shall conform to the Massachusetts legal standard for milk, and shall be delivered to a bottling plant or pasteurization plant in the original container in which such milk was strained and stored on the farm where produced.



Each container of Special Milk Raw, before leaving the farm on which said milk is produced, shall be clearly marked so as to be easily identifiable. Each plant where Special Milk Raw is received and weighed shall have on hand and available at all times to authorized persons a list of Special Milk producers with the producer's plant number affixed to the names of all producers qualified for Special Milk production. No such milk shall be bottled later than twenty hours after the earliest time of drawing from the cow any portion thereof, and shall be delivered to the consumer within 36 hours after the earliest time of drawing any portion thereof from the cow, and shall show a bacterial count of not more than fifty thousand colonies per cubic centimeter when delivered to the consumer. At retail, Special Milk Raw shall be sold, or offered, or exposed for sale only in bottles. Each bottle containing such milk shall be capped with a cap which will protect from contamination the pouring lip of such bottle and every such cap coming in contact with such milk shall be affixed only by means of a machine capper. Every such cap shall bear the designation Special Milk Raw and the day of the week on which such milk was produced.

(f) Special Milk—Pasteurized shall be only Special Milk—Raw which has been pasteurized within the Commonwealth in compliance with Section 1 of Chapter 94 of the General Laws (Ter. Ed.) in establishments operated in accordance with the regulations made by the Department of Public Health under authority of Section 48A of Chapter 94 of the General Laws (Ter. Ed.) and in accordance with said section, provided, that immediately prior to such pasteurization all apparatus used therefor or therein shall have been thoroughly cleaned and sterilized. Such milk, when delivered to the consumer, shall show a bacterial count of not more than five thousand colonies per cubic centimeter. Special Milk—Pasteurized, when bottled, shall be bottled immediately after pasteurization and only at the place where such milk is pasteurized. The bottles shall be capped immediately after filling in the manner prescribed for capping Special Milk—Raw except that the caps shall bear the designation Special Milk—Pasteurized, the day of the week on which such milk was pasteurized, and may also bear a statement of the minimum percentage of butterfat contained in such milk.

(g) Certified Milk—Raw shall be only milk produced in accordance with sections 20 to 25, inclusive, of Chapter 180 of the General Laws and amendments thereto (Ter. Ed.) and the rules and regulations of the Department of Public Health made thereunder and with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions in effect when such milk is produced.

(h) Certified Milk—Pasteurized shall be only Certified Milk—Raw, pasteurized, in compliance with section 1 of Chapter 94 of the General Laws, (Ter. Ed.) at the place where such milk is produced, only in establishments operated in accordance with regulations made by the Department of Public Health under authority of Section 48A of Chapter 94 of the General Laws (Ter. Ed.) or the Milk Regulation Board under authority of Chapter 542 of the Acts of 1946, amending Section 16J of Chapter 94 of the General Laws provided that immediately prior to such pasteurization all apparatus used therefor or therein shall have been thoroughly cleaned and sterilized. No such milk shall be pasteurized later than twenty hours after the earliest time of drawing from the cow any portion thereof. Such milk, prior to such pasteurization, shall contain not less than four per cent milk fat as provided by the regulations of the American Association of Medical Milk Commissions in effect when such milk is produced and subsequent to pasteurization, and when delivered to the consumer shall not show a bacterial count of more than five hundred colonies per cubic centimeter. Such milk shall be capped in accordance with the standards established by the American Association of Medical Milk Commissions and every such cap shall bear the words Certified Milk—Pasteurized and the day of the week upon which such milk was pasteurized.

6. Caps not in strict compliance with these rules, regulations and standards may be used for a period not exceeding six months from the effective day of such rules, regulations and standards, provided that the grade designation is clearly set forth and all other requirements relating to the production, processing, labelling and sale have been substantially complied with.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 5/8/35. Amended 11/17/48.

## The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE SALE OF RABBITS INTENDED FOR FOOD PURPOSES.

The Department of Public Health, acting under the authority of Chapter 106 of the Acts of 1929, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

REGULATION No. 1. No person shall sell or offer for sale or have in his custody or possession with intent to sell, exchange, or deliver for food purposes the carcass of any rabbit shipped from without the Commonwealth unless such carcass has been in cold storage at a temperature less than 30° Fahrenheit for a period of not less than 30 days.

REGULATION No. 2. Whoever receives from another state a carcass of a rabbit shall within twenty-

four hours of receipt thereof cause such carcass to be placed in cold storage in this Commonwealth at a temperature below 30° Fahrenheit and shall not remove such carcass for a period of not less than 30 days provided that such carcass has not been held in cold storage without the Commonwealth at a temperature of less than 30° Fahrenheit for a period of less than 30 days and is so tagged or labelled to indicate such storage.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 5/14/29.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RULES AND REGULATIONS GOVERNING THE BUSINESS OF COLD STORAGE MADE UNDER THE PROVISIONS OF GENERAL LAWS, CHAPTER 94, SECTION 67.

These rules are to be regarded as temporary only, and as occasion requires the Department of Public Health will amend, alter and supplement them. Due notice of such alteration will be given to all persons interested.

1. Articles of food intended for cold storage shall, when they are offered for or placed in cold storage, be enclosed in boxes, barrels, crates or other packages sufficiently strong to protect them from injury, unless the articles are of such a character that it is impracticable to pack them in containers.

2. When articles of food contained in packages are placed in cold storage, each package shall be legibly marked in black, purple or red ink as follows: "Received," followed by the day, month and year when such articles were received in storage.

When articles of food not contained in packages are placed in cold storage, and it is found to be impracticable to mark each individual article, they may be stored in stacks or piles, and an appropriate tag applied to them indicating the date on which they were received in cold storage.

All letters or figures must be in plain type not less than three-eighths of an inch in height.

The word "Received" may be written "Rec'd," and figures separated by hyphens may be used to indicate dates and will be regarded as sufficient date if following the word "Rec'd." The last two figures of the number indicating the year when such foods were placed in storage may be used, e. g., "Received September 1, 1933," may be written, "Rec'd 9—1—33.

3. When articles of food have been kept in cold storage for twelve calendar months, report of such fact shall be made to the Department of Public Health by the person having custody of such articles, and such articles shall not be removed from cold storage by the owners until they have been inspected by the agents of the Department of Public Health, and released by order of the Department. Articles of food which have been in cold storage without this Commonwealth, the date of original storage of which cannot be ascertained, may be placed temporarily in cold storage, and the depositor thereof shall immediately notify the Department of Public Health, and shall request permission to keep such articles for a definite period less than twelve calendar months. On receipt of this request, the articles will be examined and if found to be in satisfactory condition, permission to retain such articles in storage may be granted. Cold storage warehouses receiving articles of food which appear to

have been previously in cold storage and not bearing any date of original storage may temporarily place such articles in cold storage and shall immediately notify the Department of Public Health of such action.

4. For the purpose of facilitating the removal of articles of food from cold storage before the expiration of the statutory period of twelve calendar months, persons operating cold-storage warehouses shall notify the owners of all articles of food stored by them of the date when such articles will have been in storage twelve months, at least fifteen days before such twelve months have elapsed.

5. Requests for permission to store food for a longer period than twelve calendar months must be made by the owners thereof to the Department of Public Health, upon blanks which will be furnished by the Department upon application. No such request will be considered by the Department unless a satisfactory and accurate reason, stating why such extension of storage is desired, is given.

Before such requests are granted the articles of food to which they refer must be inspected by agents of the Department. Requests should therefore be made at least two weeks before the statutory time limit for storage has expired.

6. Articles of food which are held at low temperatures for temporary protection only, for periods less than thirty days, will not, for the purposes of this act, be regarded as being held in cold storage, and such articles need not be dated, but such articles shall as far as practicable be kept separate from articles intended for cold storage.

7. The sign "Cold Storage Goods Sold Here," required by section 72, chapter 94, General Laws, shall be printed in type not less than two inches in height, printed in black on a white background, and said sign shall be posted in a conspicuous place in all places where uncooked cold-storage goods are kept or offered for sale, no other lettering to appear on or to be attached to this sign.

8. Broken eggs, packed in barrels, kegs, cans or any other container, if not intended for use as food, shall be marked by the owner when deposited in cold storage with a stamp or label reading "Not for Food" on the side of the body of the container. The words "Not for Food" shall be indicated in letters not less than three-eighths of an inch in height, and a similar stamp or label shall be placed upon the side of any crate or other package containing more than a single can.

9. The floors, walls, ceilings, furniture, receptacles, implements and machinery of every cold-storage or refrigerating warehouse shall be kept in a clean, healthful and sanitary condition; and, for the purpose of this rule, unclean, unhealthful or unsanitary conditions shall be deemed to exist if the food stored is not securely protected from flies, dust, dirt, insects and from all foreign or injurious contamination.

10. Toilet rooms shall be separate and apart from the rooms in which food is stored; cuspidors for the use of employees must be washed daily with disinfectant solution.

11. No employer shall knowingly require, permit or suffer any person to work, nor shall any person work, in a cold-storage or refrigerating warehouse who is affected with any infectious or contagious disease.

12. No material in a state of decomposition or putrefaction, or in any other condition which renders it unfit for use as food, shall be placed in cold storage in the same room or enclosure with articles for use as food.

#### REGULATION REGARDING THE SALE OF COLD STORAGE EGGS.

(Adopted July 11, 1922.)

1. The sign or placard required by section 91 of chapter 94 of the General Laws, to be placed upon or immediately above cold storage eggs, or upon the basket, box or other container in which cold storage eggs are placed, shall consist of the words "Cold Storage Eggs" printed in uncondensed Gothic type, in letters not less than one inch in height, printed in black on a white background, no other lettering to appear on or to be attached to said sign or placard. (This sign or placard to be used only where cold storage eggs are offered or exposed for sale.)

2. The marketing required by section 91 of chapter 94 of the General Laws, to be placed upon the container in which cold storage eggs are sold at retail or delivered to the customer, shall consist of the words "Cold Storage Eggs" plainly and conspicuously printed or stamped in letters not less than one inch in height, or, if in letters of uncondensed Gothic type, not less than one-half inch in height, no other lettering to appear in connection with the words "Cold Storage Eggs."

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 10/10/33.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE STERILIZATION OF FEATHERS, DOWN AND SECONDHAND MATERIAL INTENDED FOR USE IN THE MANUFACTURE OF ARTICLES OF BEDDING AND UPHOLSTERED FURNITURE.

The Department of Public Health, acting under the authority of Chapter 439 of the Acts of 1935, and every other act thereto enabling hereby prescribes and establishes the following rules and regulations.

**REGULATION No. 1.** Any person who desires a license for the sterilization of feathers, down or second-hand material intended for use in the manufacture of articles of bedding or of upholstered furniture shall apply to the Department of Public Health for such license and shall state in such application the method intended to be used for such sterilization and shall furnish a sketch of the apparatus together with a statement of the location upon the premises where the apparatus is to be situated. The application shall be accompanied by the fee of \$50.00 payable to the Commonwealth of Massachusetts which fee shall be returned to the applicant if the license is not granted. After receipt of the application, the Department may make or cause to be made an examination of the apparatus which may include an efficiency test of the operation of the apparatus together with a bacteriological examination of material before and after treatment and, if the apparatus is found to be in conformance with these regulations and the material is sterilized as provided therein and otherwise conforms to all requirements provided by law or regulation, the Department shall then issue such license for a period of one year. The Department may make periodic tests of the efficiency of the process, including bacteriological tests, and if such process is found not to sterilize the material so that pathogenic organisms and vermin are killed, the license shall be subject to suspension.

#### METHODS OF STERILIZATION.

##### REGULATION No. 2

###### (a) Hot Air

The apparatus shall be so constructed as to safely produce a temperature of at least 230°F. and shall be equipped with automatic control to maintain such temperature. Articles sterilized by this method shall be so treated for a period of not less than two and one-half hours and shall be so separated from each other during such process as to allow free circulation of hot air for at least four inches on all sides thereof. There shall be attached to such sterilizer an accurate recording thermometer and a mercury in glass indicating thermometer accurate to 0.5°F. Upon each day that the appara-

tus is used, the licensee shall cause to be placed upon the recording thermometer a chart which had not been previously used and dated with the year, the month and the day of the month. Each licensee shall cause the recording thermometer to be checked against the indicating thermometer during the two and one-half hour period of sterilization and shall record or cause to be recorded upon the chart the readings of each such thermometer and the time of observation. Each licensee shall keep such charts on file for a period of not less than six months upon the premises covered by the license.

###### (b) Steam Pressure

Material may be sterilized by treatment by live steam at a pressure of fifteen pounds for a period of thirty minutes or at a pressure of twenty pounds for twenty minutes. The chamber shall be steam-tight and shall be equipped with a steam gauge so located as to be easily read.

###### (c) Streaming Steam

Material may be sterilized by two applications of streaming steam maintained for a period of one hour each with an interval between treatment of at least six hours and not more than twenty-four hours. The chamber shall have outlet valves at the top and bottom which shall be kept open to prevent pressure in the chamber. The room in which the chamber is situated shall be steam-tight and provisions shall be made for the removal of condensed steam.

###### (d) Chemical Sterilization

Material may be treated with formaldehyde gas and moisture and in addition, if desired, with sulphur dioxide for at least ten hours. The amount of formaldehyde for each 1,000 feet of cubic space in the chamber shall be at least the quantity which shall be generated by at least one pint of 37% formaldehyde solution and the minimum quantity irrespective of the size of the chamber shall correspond to that quantity generated from not less than two ounces of 37% formaldehyde solution. The chamber shall be sufficiently tight so that the gas will not escape, and shall be equipped with an air inlet and outlet. Before beginning the operation, the floor of the chamber shall be thoroughly sprinkled with warm water. This process is not to be used for sterilizing new feathers.

###### (e) Sterilization of Feathers

New feathers must be washed with a solution suitable for cleansing and subsequently be rinsed until free from the cleansing solution. All feathers



shall be washed, rinsed and sterilized either by live steam or by dry heat. All feathers shall also be put through a process to remove dust.

**REGULATION No. 3.** All persons operating sterilization processes, who sterilize material for others, shall keep an accurate record of the names of such persons, the amount and kind of material sterilized and the date of sterilization. All records required to be kept shall be open to inspection by any officer,

agent or inspector of the Department of Public Health.

**REGULATION No. 4.** Other processes of sterilization not specifically enumerated herein may be approved by the Department after inspection.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on November, 1935.

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## The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE MARKING OF EACH ARTICLE OF BEDDING AND UPHOLSTERED FURNITURE.

The Department of Public Health, acting under the authority of Section 2, Chapter 307 of the Acts of 1928 in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

The tag required by Section 270, Chapter 94, General Laws to be attached to each article of bedding and each article of upholstered furniture shall be in the following form. The tag shall first bear the following words: "This tag is attached as provided by Section 270, Chapter 94, General Laws of the Commonwealth of Massachusetts. Do not remove this tag under penalty of law."

The tag shall next bear the words: "Manufactured of new material consisting of." This shall be followed by a space in which shall be stated the name of the material used for filling. This shall next be followed by the words "Manufactured by" or "Distributed by," followed by the name of the manufacturer or vendor.

In case the material used for filling has been "previously used" or has "been used before" the words

"Manufactured of new material" shall be changed to read "Manufactured of second-hand material," and the color of the tag shall be red, the lettering to be of a different color. Whenever such material is required to be sterilized, the tag shall contain in addition the following words: "Material sterilized" in letters not exceeding one-quarter of one inch in height. In the case of a mattress which has been remade, the words "Manufactured of new material consisting of" shall be replaced by the words "Remade, material consisting of."

In the case of articles of bedding or upholstered furniture manufactured without this Commonwealth, the reference to Section 270, Chapter 94, General Laws may be omitted, provided that a reference is made to similar laws existing in the state where the article was manufactured.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 12/10/30.

Amended 11/12/35.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE MANUFACTURE AND BOTTLING OF CARBONATED NON-ALCOHOLIC BEVERAGES, SODA WATER, MINERAL AND SPRING WATER.

The Department of Public Health, acting under the authority of Section 10E, Chapter 94 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 441 of the Acts of 1935, and every other act thereto enabling, hereby prescribes and establishes the following.

**REGULATION No. 1.**—A person who desires a permit to operate an establishment for the manufacture and bottling of certain non-alcoholic beverages, soda water, mineral or spring water, shall make application in duplicate to the board of health of the town where the establishment is located for such permit and shall file in duplicate, with such application, a sketch or plan of the establishment showing the location of the apparatus, but if such application is for a renewal of a permit, no sketch or plan need be filed except as relating to changes made since the prior permit was granted. If the water supply is not a public water supply the applicant shall file in duplicate, an analysis of the water and a description of the source. Each applicant for a permit to bottle mineral or spring water shall in addition furnish in duplicate a description of the spring and its location including a sketch of the locality, an analysis of the water, and a statement of the methods of cleaning, sterilizing and filling the bottles.

The application shall be in the following form:—

**APPLICATION FOR PERMIT TO ENGAGE IN THE BUSINESS OF MANUFACTURING OR BOTTLING CARBONATED NON-ALCOHOLIC BEVERAGES, SODA WATER, MINERAL OR SPRING-WATER.**

To the Board of Health of \_\_\_\_\_

In accordance with the provisions of sections 10A and 10B of Chapter 94 of the General Laws, inserted by Chapter 441 of the Acts of 1935, and the regulations made thereunder, the undersigned hereby applies for a permit for the manufacture and bottling of carbonated non-alcoholic beverages, soda water, mineral or spring water, and submits the following information.

1. Full name of applicant \_\_\_\_\_
2. Business address \_\_\_\_\_
3. If applicant is { Full Name \_\_\_\_\_  
an individual { Residence \_\_\_\_\_
- 3a. If applicant is a partnership, full name and residence of all partners.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3b. If applicant is { State of incorporation \_\_\_\_\_  
a corporation { Date of incorporation \_\_\_\_\_  
Principal office \_\_\_\_\_  
Full name and address of:—  
President \_\_\_\_\_  
Treasurer \_\_\_\_\_  
Clerk \_\_\_\_\_
4. Location of Plant \_\_\_\_\_
5. Names of brands and trade names, if any, under which the products are to be sold \_\_\_\_\_
6. State provision for cleaning and sterilizing of bottles \_\_\_\_\_
7. State source and capacity of hot water facilities \_\_\_\_\_
8. Are toilets and washing facilities as per regulations \_\_\_\_\_
9. Is the water supply public or not \_\_\_\_\_
10. Is the plant constructed and equipped as provided in the regulations \_\_\_\_\_
11. Have you received a copy of the regulations \_\_\_\_\_

I hereby certify that I will operate in accordance with the laws and regulations and that all materials to be used shall be as specified in Sections 186-196 inclusive of Chapter 94 of the General Laws and the regulations made thereunder.

Signature \_\_\_\_\_  
City or town \_\_\_\_\_ Date \_\_\_\_\_

**REGULATION No. 2.**—On receipt of the application and other documents in duplicate, the board of health shall, within seven days inspect the premises covered by the application and if the establishment complies with these regulations and with all local regulations pertinent thereto, and the material to be used appears to be in conformance with the provisions of the law, said board shall grant the permit upon the receipt of a fee of twenty dollars. The board shall immediately send to the Department of Public Health, a copy of the license, a copy of the application, a copy of the other documents filed and half of said fee.

Thirty days prior to the expiration date of each permit the board of health shall notify the owner of such permit of the date of expiration thereof and if the permit is not renewed shall cause the manufacturing and bottling of carbonated non-alcoholic beverages or mineral or spring water to cease and shall send to the Department of Public Health notice to that effect.

**REGULATION No. 3.**—No permit shall be granted and any permit granted may be revoked if the build-



ing and the equipment are not in accordance with the following conditions:—

The rooms where the beverages are prepared shall be adequately lighted and ventilated.

The floors of all rooms where bottling is carried on shall be of some impervious material and, if necessary, shall have sufficient pitch to insure proper drainage. All drainage shall be disposed of into a public sewer if available or to a properly constructed sewage disposal system.

The walls and ceilings shall be smooth and tight and shall be of tile or shall be painted or enameled in light colors and shall be kept clean.

Suitable means shall be provided to exclude rats, mice, flies and vermin from all rooms where beverages or ingredients thereof are prepared or stored.

Toilets and washing facilities in proper working order for the use of the employees shall be provided upon the premises covered by the permit, and a sink with running water shall be installed within or in close proximity to the toilet, but no such toilet shall open directly into any room where beverages are prepared or bottled or where ingredients are stored.

No room used in the business of manufacturing or bottling of beverages or water shall be used in whole or in part for domestic purposes.

Each such establishment shall be equipped with adequate automatic equipment for the soaking, cleaning, rinsing, filling and capping of bottle and all capping machines shall be provided with automatic feed.

Proper receptacles shall be provided for the waste products of the business.

A syrup room properly screened and with self-closing door shall be provided for the mixing and storing of syrups and other ingredients of beverages. The floors shall be of impervious material which can be easily cleaned and suitable facilities for the washing of the equipment and utensils with hot and cold water shall be provided.

Pumps and piping used to convey syrup, fruit juices and liquids of similar character shall be so constructed as to be readily cleaned. No such equipment shall be constructed so that material so conveyed shall come in contact with lead or zinc.

**REGULATION No. 4.**—The holder of a permit shall cause the establishment to be conducted in accordance with these regulations and shall cause the establishment to be kept and operated at all times under sanitary conditions.

**REGULATION No. 5.**—No person suffering from any disease dangerous to the public health shall work in or about the place where carbonated non-alcoholic beverages or soda water is manufactured or bottled, or where mineral or spring waters are bottled. No person shall be so employed during the time in which a case of such disease exists in the family in which such person resides, and not thereafter until quarantine has been removed; provided that such person may be employed if the local board of health issues a certificate in writing that no danger of public contagion or infection would result from the employment of such person.

**REGULATION No. 6.**—Before beginning any work pertaining to the manufacture or bottling of beverages or spring water, each person so engaged shall wash his hands with soap and water and shall keep his hands clean during such work and immediately following the use of the toilet shall wash his hands using soap and water.

**REGULATION No. 7.**—The holder of a permit shall cause all bottles except siphon bottles to be cleaned and sterilized prior to refilling by soaking such bottles in a solution which shall at all times contain not less than 2% of actual caustic alkali calculated as sodium hydroxide. (This may be approximately determined by the tablet method as devised and recommended by the American Bottlers of Carbonated Beverages.) The sodium hydroxide solution may also contain additional detergents such as soda ash, tri-sodium phosphate or sodium metasilicate. He shall cause the bottles to be soaked in such solution for a period of not less than five minutes at a temperature of not less than 120° F. and shall then cause such bottles to be sprayed and rinsed with water from the same source as used in filling where practicable or otherwise with water approved by the Department of Public Health. The holder of a permit shall cause all bottles which are larger than quarts and all carboys to be washed with hot alkali of the same concentrate as described herein, and shall then cause such bottles and carboys to be rinsed with clean water as described herein until free from alkali.

**REGULATION No. 8.**—Each holder of a permit shall cause such permit to be conspicuously posted upon the premises where the manufacturing is conducted.

**REGULATION No. 9.**—The holder of the permit shall cause all pumps, pipe lines and other apparatus through which material for the preparation of beverages has been passed to be cleaned at the close of each day's work, and shall cause all utensils used in the manufacture of syrups to be cleaned prior to use for such purpose.

**REGULATION No. 10.**—No person shall use tobacco in any form in any room where syrups, beverages, mineral or spring waters are prepared or bottled.

**REGULATION No. 11.**—All water used in the manufacture of beverages and all mineral and spring waters shall be subject to the approval of the Department of Public Health.

Permits for the bottling of mineral or spring water shall be refused or revoked if one or more samples of such water sold or offered or exposed for sale show evidence of pollution.

**REGULATION No. 12.**—The holder of a permit shall not have on the premises, any bottles intended to be used as containers for beverages, mineral or spring water which are not sterile except such bottles as are intended to be cleaned prior to filling. The sterility of such bottles shall be determined by the methods of the American Public Health Association as applied to the examination of milk bottles and in effect at the time the examination is made.



The crown caps and corks shall at all times be so stored as to protect them from contamination, and clean new corks or crown caps shall be used at each filling.

REGULATION No. 13.—Each holder of a permit shall cause all bottles of beverages to be marked or labeled so that there will be no confusion as to the contents, the source of supply or the article contained therein, but if the required information is conspicuously placed upon the crown cap or the bottle, a label need not be attached to the bottle. Such label or mark shall conform to the regulations of the Secretary of Agriculture pertaining to the shipment of beverages in interstate commerce unless otherwise inconsistent with the provisions of the Massachusetts law (see Section 192 of Chapter 94 of the General Laws).

Attention is also called to the provisions of Sections 181-184 inclusive of Chapter 94 of the General Laws and the regulations made thereunder pertaining to marking bottles with their capacity. Information relative to this may be obtained from the Director of Standards, Department of Labor and Industries, State House, Boston.

REGULATION No. 14. Any person engaged without the Commonwealth in the business of manufacturing or bottling carbonated non-alcoholic beverages, mineral or spring water, and desiring to sell

or to ship such material within the Commonwealth for sale, shall apply to the Department of Public Health for a permit stating in the application the legal name of the business, the name and address of the owner if an individual, the names and addresses of all partners if a partnership, or the names and addresses of the president, treasurer and clerk if a corporation, together with the name of the state and the date of incorporation. The applicant shall also describe the provisions for washing and sterilizing bottles, the source and capacity of provisions for hot water, whether or not suitable toilets and hand washing facilities are installed upon the premises, the character of the water supply and if not a public water supply, a recent analysis thereof made by a Department of the state where the establishment is located, together with a sketch and description of the source.

The applicant shall also state that the establishment conforms with the regulations.

Each such application shall be accompanied by a check for twenty dollars payable to the Commonwealth of Massachusetts, which sum will be returned if the permit is not granted

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 11/12/35 amended 4/36.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE BUSINESS OF SLAUGHTERING AND MEAT INSPECTION.

Made in accordance with the provisions of sections 124, 126 and 147, Chapter 94 of the General Laws (Ter. Ed.).  
(As amended by Chapter 508 of the Acts of 1943.)

#### SLAUGHTERHOUSES.

All slaughterhouses are subject to the inspection of the agents of the Department of Public Health at any time. See section 136 of chapter 94 of the Tercentenary Edition of the General Laws, regarding animals which have died other than by slaughter.

#### MAINTENANCE AND OPERATION OF SLAUGHTERHOUSES.

**Location.**—Each slaughterhouse licensed under the provisions of Section 119 of Chapter 94 of the General Laws shall be located on sites favorable to good drainage free from contaminating surroundings such as manure piles, poultry yards, hog pens, or accumulation of wastes favorable to breeding of flies.

**Drainage.**—All drainage shall be disposed of in such a manner as not to cause a nuisance. Such drainage shall be to a public sewer, if available, otherwise shall be disposed of by means of septic tanks or properly constructed cesspools. Such disposal shall, in addition, conform to the regulations of the town where the establishment is located. Open ditch drainage and open sewer systems shall not be permitted.

All viscera and contents of body cavities, hair, feet, heads, etc., and any other material likely to cause a nuisance shall be disposed of at the close of slaughtering operations. Properly covered metal drums or like containers shall be provided for this purpose.

Where the services of a renderer are inadequate the licensee shall so handle all offal to prevent the occurrence of a nuisance. Such material accumulated for agricultural purposes shall be so treated as to prevent odors, fly breeding, or any condition dangerous to public health.

**Building.**—The building shall be properly constructed with adequate natural and artificial light and shall be properly ventilated. The floor upon which slaughtering is carried on shall be of concrete or other impervious materials such as tile properly pitched for good drainage. The floors of the cooling rooms shall be of an impervious substance. The walls of the room where slaughtering is carried on shall be of an impervious material extending to at least four and one-half feet from the floor. The connection between the walls and the floor shall be smooth to prevent the accumulation of dirt.

Animals awaiting slaughter shall not be kept on the killing floor. If it is necessary to keep them in

the main building, pens shall be provided in a section partitioned from the killing floor and the cooling room. The floor in the pens shall be of concrete or other non-absorbent material. All manure and other excrement from the pens shall be removed daily.

**Water Supply.**—Municipal water supply shall be used if available; otherwise an adequate supply of clean potable water under pressure shall be supplied. A pump shall be installed if necessary. Provision shall also be made for an ample supply of hot water. Hand washing facilities shall be provided and shall be used by the employees.

**Rats, Mice, and Vermin.**—Every practicable precaution shall be taken against rats, mice, and vermin. The refrigerator and the meat storage room shall be made rat proof. The licensee shall not permit rat poisons to be used in rooms where meat is stored, and he is not permitted to use rat viruses in the establishment.

**Hides.**—All hides shall be stored in a separate building or in a room or cellar separated from the killing compartment. If stored on the licensed premises proper drainage shall be provided for and care taken to prevent odors and fly breeding.

**Sanitation.**—Each licensee shall maintain the establishment and its surroundings in a clean and sanitary condition. All methods of slaughter and handling of meat or meat products shall conform to sanitary requirements. Attention is called to Section 305A of Chapter 94 of the General Laws as appearing in the Tercentenary Edition which provides a penalty for manufacturing or handling food in an unclean, unsanitary, or unhealthful manner in or from an unclean, unsanitary, or unhealthful establishment.

**Care of Carcasses.**—All carcasses shall be thoroughly washed when dressing is completed. Said carcasses or parts thereof, when not removed from the establishment after slaughter, shall be stored at a temperature adequate to prevent spoilage.

All carcasses shall be so suspended to prevent contact with walls or posts.

#### DUTIES OF INSPECTORS.

**Inspectors.**—The inspector of slaughtering is to be nominated annually in March by the boards of health of cities (except Boston) and towns, said nomination to be approved by the Department of Public Health before the appointment can be made.

**Duties.**—Inspectors must be present at all licensed slaughterhouses or establishments upon the days



specified for slaughter on the application for license, and there carefully examine the carcasses of all animals at the time of slaughter. The carcass shall be stamped by the inspector immediately after slaughter. The inspector shall not stamp the carcass of any animal which has not been slaughtered and dressed in his presence either in a licensed slaughterhouse or elsewhere.

**Reports.**—Inspectors or members of boards of health acting as inspectors shall make returns to the Department of Public Health on or before the fifth day of each month and shall state all inspections made by them during the preceding month. Inspectors making no inspections during the preceding month shall report "Nothing to report."

**Ante-mortem Inspection.**—Each inspector shall make any ante-mortem examination and inspection of all cattle, horses, mules, sheep and swine. Each inspector shall condemn all animals plainly showing on ante-mortem inspection any disease or condition that under these regulations would cause condemnations of the carcasses on post-mortem inspection and shall dispose of the carcasses as provided in these regulations.

**Air Inflation.**—Carcasses, or parts of carcasses, shall not be inflated with air.

**Blood.**—No blood which comes in contact with the surface of the body of an animal, or is otherwise contaminated, shall be collected for food purposes. Only blood from animals, the carcasses of which are inspected and passed, may be used for meat food purposes. The defibrination of blood intended for food purposes shall not be performed with the hands.

#### USE OF STAMP AND TAGS.

**"Massachusetts Inspected and Passed."**—The "Massachusetts Inspected and Passed" stamp, when applied to a carcass, or any part thereof, signifies that the carcasses, meats and meat products have been inspected and passed for food under these regulations. Carcasses passing inspection shall be branded as follows:—

Each side of beef, or horse, or mule meat, nine times, eight on the outside and one on the inside: Once on outside of neck, once on shoulder, once on shank, once on brisket, once on loin, once on flank, once on round, once on cod; on the inside, once on fat over kidney.

Each carcass of a calf, three times on each side, once on shoulder, once on loin, and once on leg.

Each carcass of swine, seven times,—once on head between ears, once on outside of each quarter, once on each loin.

Each carcass of sheep or lamb,—once on loin, once on each quarter.

**"Massachusetts Inspected and Condemned."**—A condemnation tag may be attached to any carcass, parts of carcass, meats or organs found to be unsound, unhealthful, unwholesome or otherwise unfit for human food, and the carcass, parts or organs so condemned shall be disposed of by rendering, or

otherwise so treated by the inspector that they cannot be used for human food.

**In the Absence of Tanking Facilities.**—Any meat or meat products condemned at slaughterhouses which have no facilities for tanking should be freely slashed with a knife and then denatured by the inspector with crude carbolic acid, kerosene or other prescribed agent, and then removed to a rendering establishment or otherwise disposed of by burial, etc.

#### INTERPRETATION AND DEFINITION OF WORDS AND TERMS.

1. **Carcass.**—This word shall apply to all parts of the animal intended to be used for food.

2. **Sound Carcass.**—Carcasses and parts thereof found to be sound, healthful, wholesome and fit for human food shall be passed and marked as provided in these regulations.

3. **Unsound Carcass.**—Should any lesion of disease or other condition that would render the meat or any organ unfit for food be found on post-mortem examination, the carcass, part or organ shall be marked immediately with a tag labelled "Massachusetts Condemned."

4. **Soiled Meat.**—Due care should be taken to prevent meat and meat products from falling on the floor; and in the event of their having fallen they should be condemned, or the soiled portions removed and condemned.

5. **Primal Parts of Carcasses.**—This phrase shall mean the usual sections or cuts of the dressed carcass commonly known in the trade, such as sides, quarters, shoulders, hams, backs, bellies, etc., and beef tongues, beef livers and beef tails, before they have been cut, shredded or otherwise subdivided preliminary to use in the manufacture of meat food products.

#### DISPOSAL OF DISEASED CARCASSES.

**Disposal of Diseased Carcasses and Organs.**—The carcasses or parts of carcasses of all animals slaughtered and found to be affected with any of the diseases or conditions named below, shall be disposed of in a manner prescribed for each disease or condition:—

1. **Vaccine Animals.**—Vaccine animals with unhealed lesions accompanied by fever, provided they have not been exposed to any infectious or contagious disease, may be used for lard or tallow; otherwise they shall be condemned.

2. **Immature Calves.**—A careful inspection shall be made of all calves at the time of slaughter. Any calf less than two weeks old shall not be stamped, as the sale of such carcasses is unlawful. Carcasses of animals too immature to produce wholesome meat, and all unborn and still-born animals shall be condemned.

The carcasses of young calves shall be condemned if (a) the meat has the appearance of being water-



soaked, is loose, flabby, tears easily, and can be perforated with the finger; or (b) its color is grayish red; or (c) good muscular development as a whole is lacking, especially noticeable on the upper shank of the leg, where small amounts of serous infiltrates or small edematous patches are sometimes present between the muscles; or (d) the tissue which later develops as the fat capsule of the kidneys is edematous, dirty yellow or grayish red, tough, and intermixed with islands of fat.

**3. Anthrax or Charbon.**—All carcasses showing lesions of anthrax or charbon, regardless of the extent of the disease, and including the hide, hoofs, horns, viscera, fat, blood and all other portions of the animal, shall be condemned and immediately incinerated, and the facts reported at once to the State Department of Health and to the Massachusetts Division of Animal Industry.

**4. Blackleg.**—Carcasses of animals showing lesions of blackleg shall be condemned.

**5. Hemorrhagic Septicaemia.**—Carcasses of animals affected with hemorrhagic septicaemia shall be condemned.

**6. Pyaemia and Septicaemia.**—Carcasses showing lesions of pyaemia or septicaemia shall be condemned.

**7. Rabies.**—Carcasses of animals which showed symptoms of rabies before slaughter shall be condemned.

**8. Tetanus.**—Carcasses of animals which showed symptoms of tetanus before slaughter shall be condemned.

**9. Malignant Epizootic Catarrh.**—Carcasses of animals affected with malignant epizootic catarrh, showing generalized inflammation of the mucous membrane, shall be condemned.

**10. Hog Cholera and Swine Plague.**—Carcasses showing well-marked lesions of hog cholera or swine plague in more than two of the organs (skin, kidneys, bones, lymphatic glands) shall be condemned.

Provided they are well nourished, carcasses showing slight and limited lesions of these diseases may be passed.

Carcasses showing lesions of these diseases so numerous and advanced as to prohibit their being passed, but not sufficient to cause condemnation, may be rendered into lard by cooking by steam for four hours at 220° F.

In inspecting carcasses showing lesions of hog cholera or swine plague in the skin, bones, kidneys or lymphatic glands, due consideration should be given to the extent and severity of the lesions in the viscera.

**11. Actinomycosis, or Lumpy Jaw.**—If a carcass affected with actinomycosis or lumpy jaw is in a well-nourished condition, and the lesions are confined to the head or tongue, the carcass may be passed, but the head and tongue shall be condemned.

Carcasses of animals showing generalized actinomycosis shall be condemned.

**12. Caseous Lymphadenitis.**—When the lesions of caseous lymphadenitis (cheesy lymph glands) are limited to the superficial glands, or a few nodules in an organ, the meat may be passed. If extensive lesions are found in the lungs or pleurae, or any of the visceral organs, and the carcass is emaciated, it shall be condemned.

**13. Tuberculosis.**—The following principles are advised for guidance in passing on carcasses affected with tuberculosis:—

**Fundamental Thought (Principle A):** The fundamental thought is that meat should not be used for food if it contains tubercle bacilli; if there is a reasonable possibility that it may contain tubercle bacilli; or if it is impregnated with toxic substances of tuberculosis or septic infections.

**Lesions Localized and not Numerous (Principle B):** If the lesions are localized and not numerous, if there is no evidence of tubercle bacilli in the blood, muscles or parts that may be eaten, and the carcass is well nourished, there is no proof that the flesh is unwholesome, and the carcass may, therefore, be passed.

**Generalized Tuberculosis (Principle C):** Evidences of generalized tuberculosis are to be sought in such distribution and number of tubercular lesions as can be explained only upon the supposition that tubercle bacilli are in the systemic circulation. Such lesions will be found in both lungs, spleen, kidneys, bones, joints, sexual glands, lymphatic glands, or in the splenic, renal, prescapular, popliteal and inguinal glands. When several of these organs or parts are coincidentally affected the carcasses showing these lesions shall be condemned.

**Localizer Tuberculosis (Principle D):** By localized tuberculosis is understood tuberculosis limited to a single or several parts or organs of a body without evidence of bacilli invasion of the systemic circulation.

**Rules for Disposal of Tuberculous Meat (Rule A):** (a) when a tuberculous animal shows symptoms of the disease with fever, before it was killed, the carcass shall be condemned.

(b) When the animal shows tuberculosis by symptoms of anaemia and emaciation, the carcass shall be condemned.

(c) When the lesions of tuberculosis are generalized as follows: when tuberculous lesions are found in any two organs of the digestive or respiratory tracts, including the lymphatic glands, spleen, kidney, uterus, udder, ovary, testicle, adrenal gland, brain or spinal cord, such carcass shall be condemned.

(d) When the lesions of tuberculosis are found in the muscles, bones or joints, or in the body of lymphatic glands as a result of draining the muscles, bones and joints, the carcass shall be condemned.

(e) When the lesions are extensive in one or both body cavities, the carcass shall be condemned.

(f) When the lesions are multiple, acute and actively progressive, the carcass shall be condemned.

**Parts of Carcass condemned (Rule B):** An organ or part of a carcass shall be condemned—



- (a) When it contains lesions of tuberculosis.
- (b) When the lesion is adjacent to the flesh.
- (c) When contaminated by tuberculosis material through contact with the floor, soiled knife or otherwise.
- (d) When heads show lesions of tuberculosis.
- (e) When the corresponding lymphatic gland of an organ is tuberculous.

Carcass passed (Rule C): The carcass, if the tuberculous lesions are limited to a single part or organ, shall be passed after the parts containing the local lesions are removed and condemned.

**14. Texas Fever.**—Carcasses showing lesions sufficient to warrant the diagnosis of Texas Fever shall be condemned.

**15. Mange or Scab.**—Carcasses of animals affected with mange or scab in advanced stages, or showing emaciation or extension of the inflammation to the flesh, shall be condemned. When the disease is slight the carcass may be passed.

**16. Tapeworm Cysts.**—Carcasses of animals affected with tapeworm cysts should be rendered into lard or tallow. When the infestation is extensive the carcass shall be condemned.

Carcasses of animals affected with gid bladder worms may be passed after condemnation of the affected organ (brains, spinal cord).

Carcasses or parts of carcasses infested with the hydatid cyst may be passed after condemnation of the affected part or organ.

#### INFECTIONS THAT MAY CAUSE MEAT POISONING.

Carcasses of animals so infected that consumption of the meat, or meat food products, may give rise to meat poisoning shall be condemned. This section covers all carcasses showing signs of—

- (a) Acute inflammation of the lungs, pleurae, peritoneum, pericardium or meninges.
- (b) Septicaemia or pyaemia, whether puerperal or traumatic.
- (c) Severe hemorrhagic or gangrenous enteritis or gastritis.
- (d) Acute diffuse metritis or mammitis (garget).
- (e) Polyarthrititis (inflammation of joints).
- (f) Phlebitis of umbilical veins.
- (g) Traumatic pericarditis.

**Icterus.**—Carcasses affected with icterus (jaundice), and showing an intense yellow or greenish yellow discoloration after proper cooling, shall be condemned. If such a discoloration passed away during cooling the carcasses may be passed.

**Uraemia and Sexual Odor.**—Carcasses giving off such odors shall be condemned.

**Urticaria, etc.**—Hogs affected with urticaria (diamond skin disease) may be passed after condemning the skin, provided the carcass is otherwise fit for food.

**Tumors, Bruises, Abscesses, etc.**—Any organ or part of a carcass which is badly bruised, or is affected by tumors, malignant or benign abscesses, suppurating sores or liver flukes, shall be condemned.

When the lesions affect the whole carcass the entire carcass shall be condemned.

The carcasses, or any part or product thereof, of all animals which have come to their death in any manner or by any means otherwise than by slaughter or killing while in a healthy condition shall be condemned as being unfit for food, and shall be disposed of either by burial or rendering.

**Emaciation and Anaemia.**—Carcasses of animals too emaciated or anaemic to produce wholesome meat, and carcasses showing slimy degeneration of the fat, or a serious infiltration of the muscles, shall be condemned.

**Milk Fever, Railroad Sickness.**—Carcasses of animals showing symptoms of milk fever or railroad sickness at the time of slaughter shall be condemned, as the flesh of such animals is dark in color and more watery than is natural, suggesting auto-intoxication.

#### HORSES AND MULES.

The slaughter of horses and mules shall be conducted in establishments, separate and apart from any establishment in which neat cattle, sheep, and swine are slaughtered. Any horse or mule showing bruises, injuries, emaciation, severe skin affections, acute inflammations, or from any diseased condition which would render the meat unfit for food, shall be condemned.

All horse and mule carcasses, and parts of carcasses, shall be stamped by the inspector when found fit for food. The stamp used by the inspector shall be of different design than the stamp used on the carcass of neat cattle, sheep, and swine, and shall bear the words "Horse Meat" and the name of the town or city where the animal was slaughtered. The color of the ink used in stamping shall be green, the stamp to be placed on the carcass as provided in the case of beef.

All cartons, boxes and other containers used in the shipment of horse meat or horse meat products, shall bear a green label, containing the words "Horse Meat" or "Horse Meat product" in black letters not less than one inch in height. Not less than two labels shall be affixed to each container containing the meat or meat product. Each label shall also bear the name and address of the shipper.

All horses and mules found on ante-mortem or post mortem inspection to be affected with the following diseases shall be condemned: strangles, glanders, farcy, purpura, hemorrhagica, azoturia, dourine, forage, poisoning, cerebro spinal meningitis, acute influenza, generalized osteoporosis, encephalomyelitis, malignant edema, pyemia, malignant disorders, acute inflammatory lameness and extensive fistula.

All the provisions of the other regulations governing meat inspection, unless specifically inapplicable, are hereby made applicable to the inspection of horse and mule meat.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 7/9/31. Amended 12/10/35; 9/14/43.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO POULTRY SLAUGHTERHOUSES.

The Department of Public Health, acting under the authority of Chapter 94 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 679 of the Acts of 1945, and every other act thereto enabling, hereby prescribes and establishes the following Regulations.

Persons desiring a license to operate and maintain an establishment for the slaughtering of poultry shall make application in duplicate upon forms which may be secured from the board of Health. These forms may be obtained by the board of health upon request to the Massachusetts Department of Public Health. The applicant shall mail one copy of the application to the Massachusetts Department of Public Health. The other copy of the application, together with the necessary fee, shall be delivered to the board of health of the town where the establishment is or is to be located.

Within ten days of the receipt of the application for a license, the board of health shall cause an examination to be made of the building, of the equipment, and of the disposal of waste. If the establishment is found to be in conformance with these regulations and with applicable local regulations, the board, upon receipt of the necessary fee, shall grant a license for twelve calendar months. The board shall send to the Massachusetts Department of Public Health a copy of the license if granted, and if refused shall so inform the department. All such fees shall be paid into the town treasury.

Each licensee shall conspicuously display the license on the licensed premises.

No license shall be granted and any license granted may be revoked if the building and equipment are not constructed and maintained, and the establishment operated by the licensee in accordance with the following requirements:

**Location.**—Each establishment licensed for the slaughter of poultry under chapter 679, Acts of 1945, shall be located on a site favorable to good drainage, free from contaminating surroundings such as manure piles, hog pens, or accumulation of wastes conducive to the breeding of flies and other insects.

**Construction, Lighting, Etc.**—The building shall be properly constructed with sufficient natural and artificial light and shall be properly ventilated.

**Floors, Walls and Ceilings.**—The floors shall be constructed of cement or other impervious material; graded to drain quickly; free from cracks or uneven surfaces; and shall be maintained in good sanitary condition. The walls of the room where slaugh-

tering is carried on shall be of smooth cement or other hard, impervious material, extending at least eight (8) feet above the floor. The juncture between floor and walls shall be coved. The walls shall be smooth, washable, light colored, and kept clean. The ceiling and the roof shall be tight to prevent entrance of dirt or other foreign materials.

**Rooms and Surroundings.**—The surroundings of the establishment as well as all rooms, stairways, corridors and cellars shall be kept in a sanitary condition.

**Flies, Vermin, Etc.**—All windows, doors and other openings to the outer air shall be screened and due precautions shall be taken to keep flies out of the room where live poultry is kept for slaughter or where slaughtering is carried on or where poultry is processed or stored.

Every precaution shall be taken to keep the establishment free from rats, mice and vermin. Extra effort should be made to secure a rat-proof building.

Rat poison shall not be used in rooms where slaughtering is carried on or where poultry is slaughtered or handled.

**Keeping and Display of Poultry.**—No poultry shall be kept in the windows of a licensed establishment or on the outside near the building.

No poultry shall be brought to the establishment for any purpose other than for immediate slaughter. No diseased or dead poultry shall be taken into the establishment.

**Care of Coops.**—All coops used in the establishment shall be of metal with removable trays for droppings. These trays shall be thoroughly washed and cleaned twice each week and fresh clean sawdust placed on each tray. All droppings must be removed and properly disposed of daily so as to prevent a nuisance.

**Water Supply.**—Municipal water supply shall be used when available, otherwise an ample supply of clean potable water under pressure shall be provided. All water used shall be from a source approved by the State Department of Public Health.

**Drainage.**—All drainage shall be disposed of so as not to cause a nuisance. Such drainage shall be to a public sewer if available, otherwise to properly constructed cesspools or to septic tanks and shall also conform to such local rules as may be in effect. No drainage or other waste shall be deposited on the surface of the ground.

Open ditch drainage or open sewer systems shall not be permitted.



**Toilets, Etc.**—Toilets, hand washing facilities with hot and cold water, soap and towels, and dressing rooms, shall be provided. These rooms shall not open directly into any room where poultry is being dressed or stored.

**Room for Slaughter.**—Slaughtering of poultry shall be conducted in rooms separate and apart from any room in which live poultry is kept or where carcasses are being handled and stored.

**Control of Blood.**—All slaughtering shall be so done in such a manner to confine blood to as small an area as possible. Adequate equipment shall be used to cause said blood to be so confined. Killing troughs, boxes or compartments to facilitate the control of blood shall be of concrete, metal or other impervious material and shall be properly cleaned at the close of each day's operation.

**Rooms for Handling.**—The cooling, storage and subsequent handling of all poultry shall be carried on in a section separate and apart from the section where live poultry is kept. Each licensee shall cause the machinery and other equipment used in slaughtering, defeathering and dressing of poultry to be thoroughly cleaned at the close of each day's operation. Knives and all other implements and utensils including blood containers shall be thoroughly cleaned daily.

**Feather Removal.**—Hot water used for poultry immersion in the removal of feathers shall be subject to automatic or continuous changing to provide clean water at all times. After the removal of the feathers, all poultry shall be so handled and stored to prevent contamination and unwholesomeness.

All wax and similar preparations used in defeathering poultry shall be free from contamination. When wax is used a trough of sufficient size shall be so placed to prevent wax from falling on the floor of the plant.

**Dressing.**—If poultry is to be eviscerated, the process shall be carried on in a room in no way connected with rooms where live poultry is kept or where slaughtering or cooling are carried on, and in such a manner as to prevent contamination of the product and to retain it in a clean wholesome condition. Slaughtered poultry shall not be considered ready for chilling and subsequent dressing unless the vent and crop of each carcass shall have been evacuated.

**Waste Disposal.**—All viscera, feet, blood, feathers and other waste products accumulating in the

plant operation, shall be removed from the premises at the close of each day's operation. Metal covered containers shall be used at all times and all wastes disposed of in a sanitary manner. Reclaiming of feathers shall not be carried on in the same building in which poultry is slaughtered or processed.

**Chiling.**—After defeathering, all poultry shall be subjected to a cooling process during which said poultry shall be chilled by refrigeration or be made to pass through a spray of cold potable water under pressure. The method of immersion in a tank or other clean receptacle may also be employed but only if the tank or receptacle is provided with a continuous flow of cold potable water. When the immersion method is employed, the interior of said tanks and receptacles shall be kept free from grease, sediment and any other contaminating material and maintained at all times in a clean sanitary manner.

**Carriers of Disease.**—No person who is affected with any disease in a communicable form or is a carrier of such disease, shall work or be permitted to work in a poultry dressing plant.

**Vehicles.**—Trucks and other vehicles shall not be stored in the sections where slaughtering or processing is carried on.

Attention is called to section 305A, chapter 94 of the General Laws, which provides a penalty for the handling of food in an unclean, unsanitary, or unhealthful manner in or from an unclean, unsanitary, or unhealthful establishment.

Section 136, chapter 94 of the General Laws reads as follows:

"Whoever being authorized or licensed to slaughter in a town, has in possession either himself or by his agent the dressed or plucked carcass, or any part thereof, of a bird or animal which has died a natural death shall be punished by a fine of not more than one hundred dollars."

Section 186, chapter 94, reads in part as follows:

"An article shall be deemed to be adulterated: ..... in the case of food: ..... Sixth, .....if it is the product of a diseased animal or one that has died otherwise than by slaughter."

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 9/14/43 amended 8/6/48.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE APPROVAL OF CONTRACTS FOR THE PRODUCTION AND DISTRIBUTION OF CERTIFIED MILK.

The Department of Public Health, acting under the authority of Section 23, Chapter 180 of the General Laws, appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following.

1. **Certified milk** produced or distributed in the Commonwealth of Massachusetts under any contract between a Medical Milk Commission of Massachusetts and any producer or distributor is required by law to be produced and handled in accordance with the methods and standards for the production of certified milk adopted by the American Association of Medical Milk Commissions, Inc. These standards shall be deemed to be the latest published standards of the Association.

2. No contract for the certification of milk shall be valid unless and until it is approved by the Department of Public Health.

3. Each person applying for a contract to produce certified milk shall file with his application for such contract satisfactory evidence that he possesses a permit issued under the provisions of General Laws, Chapter 94, Section 43.

4. The owner or lessee of the farm upon which certified milk is to be produced shall in each case be a party to the contract under which the milk is to be sold as certified.

5. No contract of certification shall be effective unless and until the farm shall have been personally inspected by at least two members of the commission making such a contract of certification.

6. All contracts for the production of certified milk shall be subject at any time and without notice to revocation, or suspension by the Medical Milk Commission making the same, or by a majority of the members thereof, or by the Department of Public Health, or the Commissioner of Public Health of the Commonwealth, and in any of said cases with cause and with assignment of reasons therefor, and no producer or distributor shall, after the revocation or termination of any contract, use in connection with the delivery of milk in the vicinity in which the certified milk has been distributed, any bottle, cap, label or advertisement bearing the label "certified milk", "Medical Milk Commission", or any other words purporting or tending to indicate that said milk is certified, endorsed or approved by any corporation or commission, within a period of one year from the date of such termination or revocation,

except with the written approval of the commission under whose jurisdiction such milk has been approved and the Department of Public Health.

7. The producer shall conform at all times, with all requirements which may be made from time to time by the Medical Milk Commission certifying the product or by the Department of Public Health.

8. Each contract shall specify the particular farm or farms upon which certified milk may be produced, and the territory to be covered by the public distributors therefrom, which territory shall be only that in the vicinity of the place in which the commission making such contract is established, except that producers may distribute certified milk elsewhere, but in no case shall such territory cover any city or town in which there is a Medical Milk Commission without the permission of that commission.

9. No herd shall be used for the production of certified milk unless such herd is a duly accredited tuberculosis-free herd under state and federal supervision or in the process of accreditation provided that if at any test, a reactor is found among the cows kept in one stable the milk from such cows if certified shall be pasteurized for a period of 60 days and until such cows are again tested by the tuberculin test under federal and state supervision and found not to react thereto. All cattle added to the herds shall be obtained directly from duly accredited tuberculosis-free herds or from any herd located in an accredited area provided that no reactors were found in such herd at the last test; and such cattle shall be segregated from the rest of the herd for a period of 60 days and until they have been again tested under federal and state supervision and found not to react thereto, or all the milk produced by such herd shall be pasteurized until the herd has again been tested by the tuberculin test and found not to react thereto. If at the end of the sixty-day period mentioned herein it is found that the subsequent tests cannot be made within a short time under State and Federal supervision, such tests may then be made by a veterinarian employed by the producer, provided that such veterinarian has been approved by the Division of Livestock Disease Control of the Department of Agriculture and by the Department of Public Health.

10. The producer shall employ in connection with the production of certified milk, and in the dairy, only neat employees in good health and shall notify such commission promptly of any changes of employees, and further shall cause each employee,



immediately before engaging in work in said dairy connected with the production of certified milk, to submit to such physical, blood, and other tests, including the Wassermann and Widal tests so-called, and satisfactory laboratory and physical tests for typhoid and other diseases, as may be required by the commission; to be made by a physician satisfactory to the commission, in such manner and to such extent, and who shall report to the commission in such form and under such conditions as shall be satisfactory to said commission, and further, shall cause all employees and their families to be examined when required by the commission.

11. Certified milk shall be bottled and sealed on the farm where it is produced. Each bottle shall be sealed with caps bearing the name of the producer, and the name of the commission certifying the milk, and the word "Certified Milk". Certified milk must be delivered to the consumer in the shortest possible time after milking, which must be within forty-eight hours from the earliest time of milking and in no instance more than thirty hours from the latest time of milking. Milk must be bottled within twenty hours after the earliest time of drawing from the cow any portion thereof.

12. None of the said caps shall be used in any manner or for any purpose other than for sealing in a manner satisfactory to the commission certifying the milk. No caps shall be used except during such time as the contract remains in force, and, if the contract is revoked or otherwise terminated, all unused caps shall be delivered to the commission.

13. In all warm or moderately warm weather certified milk shall be kept, until delivered to the

consumer, packed in cracked ice and at all times shall be delivered from neat and clean wagons or trucks, and shall be kept at a temperature not to exceed 50° F. from the time of bottling until delivery to the consumer.

14. All contracts must be approved by the Department of Public Health and, as a condition for such approval, shall contain in substance a provision as follows:

It is mutually agreed, anything to the contrary hereinbefore or hereinafter contained, notwithstanding that all certified milk shall be produced and distributed subject to, and in all respects, according to the requirements of the Department of Public Health for approval of contracts for the production and distribution of certified milk adopted July 14, 1936, which requirements are expressly made a part of this contract.

No such requirements may be waived by any Medical Milk Commission or producer without the written approval of the Department of Public Health.

15. Every Medical Milk Commission shall, within one week of receiving the results of any test for the presence of Bang's disease or any tuberculin test made upon any cow associated with a herd engaged in the production of certified milk, send to the Department of Public Health a copy of such report.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 10/14/36.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO FROZEN DESSERTS AND ICE CREAM MIX.

The Department of Public Health, acting under the authority of section 65, Chapter 94 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 375 of the Acts of 1934, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

#### I. Licensing.

Any person, firm or corporation desiring a license for the manufacture of frozen desserts or ice cream mix or both shall make application in triplicate and such application shall be signed by the owner of the establishment if individually owned, or by all partners if a partnership, or by the president, treasurer or clerk, if a corporation. The applicant shall retain one copy of the application for his files, shall mail one copy to the Department of Public Health, State House, Boston, and shall deliver the third copy, together with the fee provided by statute, to the Board of Health of the town where the establishment is located. Applicants may be required to furnish the Board of Health with such additional information as the Board by regulation may require.

Within seven days of the receipt of the application, the Board of Health shall inspect the premises covered by the application and if the frozen desserts and ice cream mix and such premises and all apparatus used for the preparation of frozen desserts and ice cream mix are in compliance with the law and with these regulations and with the regulations of the Board of Health adopted as provided by law and if the material to be used in the manufacture of frozen desserts and ice cream mix appears to be pure and wholesome, the Board of Health, after receipt of the fee provided for by statute, shall grant a license to manufacture frozen desserts or ice cream mix or both for a period not exceeding twelve calendar months ending March first. The Board of Health shall, within two weeks of receipt of the application, inform the Department of Public Health in writing of such receipt and its action thereon.

#### II. Filing of Records of Production.

In order to enable the Board of Health to compute the necessary fee for a license, each holder of a license for wholesale manufacture shall keep a daily record of the quantity of frozen desserts and ice cream mix produced and shall, on the fifteenth day of February, May, August and November mail to the Board of Health an accurate statement of such quantities, computed as gallons, manufactured during each of the three preceding calendar months. This statement shall be made under penalty of perjury.

#### III. Place of Manufacture.

The Board of Health shall not grant any license under this act unless the building in which the plant is situated is so located and constructed as to insure proper lighting, ventilation and drainage, and unless the surroundings are clean and free from refuse.

The Board of Health shall not grant a license if any room used for living or domestic purposes communicates directly with any room in which frozen desserts or the ingredients thereof are processed, manufactured or stored or in which utensils are washed or stored.

#### IV. Cleanliness.

Each licensee shall keep the premises under such license clean and free from dirt and flies and accumulation of refuse. Each licensee shall provide suitable covered receptacles for waste material and shall cause such receptacles to be removed and cleaned at the close of each day's work.

#### V. Construction and Operation.

Each licensee shall cause the establishment to be constructed and operated as follows:

The floors of all rooms where the manufacturing process is carried on shall be kept clean at all times and shall be washed daily.

Suitable toilets not directly connected with any rooms where frozen desserts or ice cream mix are manufactured or stored or where utensils are washed or stored, a sink with running water, preferably not in the toilet room, and soap and towels for the use of the employees shall be provided.

All employees shall wash their hands before beginning work and upon leaving the toilet room whether or not such has been used.

#### VI. Refrigeration.

Each plant shall be equipped with suitable refrigerated storage space of sufficient capacity for the storage of the products manufactured on the premises and the licensee shall cause such space to be maintained in a clean and sanitary condition.

#### VII. Apparatus and Equipment.

The apparatus and equipment shall be so located that all parts are easily accessible and so constructed that it can be readily taken apart for cleaning. At the close of each day's work, the licensee shall cause all pipe lines, fittings, freezers, vats, tanks, racks, molds, slabs or other equipment or other utensils



with which frozen desserts or ice cream mix or their ingredients have come in contact to be disconnected and cleaned and to be so kept and stored thereafter as to prevent subsequent contamination. The water used for washing or other purposes shall be either from a public water supply or from a private water supply subject to the approval of the Department of Public Health.

### VIII. Pasteurization.

The regulations of the Department of Public Health pertaining to the pasteurization of milk shall, wherever applicable, apply to the pasteurization of material to be used in the manufacture of ice cream or to the pasteurization of ice cream mix and shall include in their entirety regulations relative to construction and operation of pasteurization vats, recording thermometers, cleaning of apparatus and sterilization of containers to be used for holding ice cream. The pasteurization shall be performed as described under the heading "Pasteurized Milk" in Section 1 of Chapter 94 of the Tercentenary Edition of the General Laws, as amended by Chapter 158 of the Acts of 1932. Such material prior to pasteurization shall have a bacterial count not exceeding 500,000 colonies per cubic centimeter. The licensee may use for the manufacture of ice cream, products pasteurized elsewhere than upon his premises provided that such pasteurization has been performed in accordance with these regulations and provided that the premises upon which the material is pasteurized shall be operated as provided in the regulations of the Department of Public Health.

In lieu of pasteurization, retail manufacturers of frozen desserts may heat the mix to a temperature of 172° F. immediately before freezing and upon the premises where frozen. Such licensee may, by regulation of the board of health of the town where the business is located, be required to install a recording thermometer for the purpose of recording the temperature at which each batch has been pasteurized.

### IX. Bacterial Counts.

Frozen desserts containing raw milk and manufactured without pasteurization of the material shall show a count not exceeding 300,000 colonies per gram at or before the time of delivery to the consumer.

If the material therein of the entire mix has been pasteurized, such count shall not exceed 100,000 colonies per gram.

In the case of frozen desserts made without milk,

such counts shall not exceed 50,000 colonies per gram.

All bacterial counts shall be made by the standard plate methods of the American Public Health Association in use at the time the examination is made.

If an inspector of milk, board of health, or other officer or department enforcing these regulations obtains a sample of frozen dessert and finds the bacterial content thereof in excess of that provided in these regulations, he shall send the result of such analysis to the person from whom the sample was taken or to the person responsible for the condition of the article. If, within a period of not less than seven days nor more than two months thereafter such inspector of milk, board of health or other officer or department enforcing these regulations obtains subsequent samples, such samples shall be obtained from three containers at substantially the same time or one sample each day on three different days within a period of two weeks. It shall be deemed to be a violation of these regulations if the majority of these subsequent samples exceeds in bacterial count that provided therein.

### X. Sickness.

Each manufacturer shall report to the Board of Health of the town where located all cases of diseases dangerous to the public health occurring among the employees or the person working in the establishment. Upon receipt of such information, the Board of Health shall inform the Department of Public Health of the existence of such diseases and the name and address of the manufacturer.

### XI. Distribution.

All persons engaged in the retail distribution of frozen desserts shall:

- (a) Handle such material in a clean, sanitary and healthful manner and under clean, sanitary and healthful conditions.
- (b) Protect such products from flies, insects and dust.
- (c) Keep clean all cabinets and other places in which such products are stored.
- (d) Wash scoops in clean and preferably running water immediately prior and subsequent to use and if such scoops are stored in water they shall be stored in running water.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 9/11/34.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO BAKERIES AND BAKERY PRODUCTS.

The Department of Public Health, acting under the authority of Section 6, Chapter 94 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following.

**REGULATION No. 1.** The boards of health of all cities and towns, themselves or by their officers or agents, shall inspect no less than twice a year each bakery engaged in the manufacture of bakery products under their jurisdiction, and shall make a record of each such inspection upon a form devised by the Department of Public Health.

The said boards shall furnish to the Department of Public Health on or before the fifteenth day of each calendar month, on a form furnished by said Department, a report of all inspections of bakeries made during the calendar month next preceding, and of the results of such inspections.

Boards of health shall upon request receive assistance from the Department of Public Health for the enforcement of any provisions of this act.

**REGULATION No. 2.**—The construction, drainage and plumbing in manufacturing bakeries shall be in accordance with local regulations.

**REGULATION No. 3.**—The proprietor of each manufacturing bakery shall cause all floors to be constructed of a smooth, impervious substance, which can be easily cleaned, and the walls and ceilings to be smooth and tight. Walls and ceilings shall not be covered with paper or with any substance attached with paste or glue or which cannot be easily cleaned. The proprietor of each bakery shall provide running hot and cold water together with sinks of sufficient size for the scalding and cleaning of utensils and equipment.

**REGULATION No. 4.**—All shelves, racks, bins or other facilities used for the storage of bakery products and ingredients used therein shall be so constructed that they may be easily cleaned. The tables, mixing stands and troughs used in the preparation of bakery products shall be constructed of smooth, impervious material, and so constructed that they can be easily and thoroughly cleaned.

**REGULATION No. 5.**—The proprietor of each bakery manufacturing bakery products other than bread shall cause such bakery to be equipped with refrigeration apparatus and shall keep under refrigeration eggs, pastry fillings and other ingredients which are liable to deteriorate and shall cause to be used only on the day they are prepared, fillings

which deteriorate rapidly at room temperature such as those used in cream puffs, eclairs and other pastries.

**REGULATION No. 6.**—The proprietor of each bakery shall provide suitable toilets or water-closets which shall be located in rooms not directly connected with any room in which bakery products or ingredients thereof are prepared, stored, handled or displayed. The door of such toilet or water-closet shall be so installed that it shall remain closed when not in use and if necessary a spring shall be attached to facilitate such closing. No person shall use such toilet or water-closet for the hanging of wearing apparel or for storage purposes.

**REGULATION No. 7.**—The proprietor of each bakery shall not store upon any floor any flour or material in sacks used in the manufacture of bakery products unless such material is stored on portable wooden or metal platforms or racks at least 8 inches above the floor, provided that such platforms or racks be kept in a sanitary condition and provided further that the room used for such storage shall be kept dry and properly ventilated. That portion of this regulation relating to platforms and racks shall not apply to such flour or material stored above the street floor: provided that the room in which the material is stored is used exclusively for such storage, and, provided further, that it is so constructed, kept and maintained, as to protect the flour and material from contamination and vermin, and to insure its cleanliness and wholesomeness.

**REGULATION No. 8.**—The proprietor or manager of each bakery shall not permit rooms used for domestic purposes to be directly connected with the bakery nor shall he permit any room where the production, storage, or display of bakery products is carried on to be used for domestic purposes, nor shall he permit such rooms to be used for storage purposes. No persons shall congregate or loiter in any bakery. The proprietor of a bakery shall take means to exclude children from all parts of the bakery where production of bakery products is carried on.

**REGULATION No. 9.**—All persons having custody of bakery products intended, offered or exposed for sale shall cause such products to be stored, handled, transported and kept so as to protect them from contamination, disease or unwholesomeness. The proprietor of any place where bakery products are exposed for sale shall cause such products to be covered in such a manner as to protect them from dust, flies and other injurious matter as well as from han-



## RULES AND REGULATIONS

## AMENDMENTS TO BAKERY REGULATIONS

(To be inserted after page 261)

(Amend Regulation 5 by the addition of the following:-)

"The proprietor of each bakery shall cause to be dismantled and cleaned immediately after use all bags, nozzles, and other equipment used in the filling of cream puffs, eclairs, or other bakery products containing filling and all equipment employed in the icing or frosting of cakes or other bakery products."

(Add the following two new paragraphs to Regulation 7:-)

"No proprietor of a bakery shall receive or use in the manufacture of bakery products, or permit to be received or so used, any flour or meal in or from, as the case may be, any container except a new single-service container or one which is clean and sanitary and incapable of contaminating its contents. No person by himself or by his agent shall for the purposes of distribution or delivery refill with flour or meal any secondhand or previously used sack, bag, barrel or other container unless such container has been previously used exclusively as a container of flour or meal, nor unless such container has been rendered clean and sanitary and free from all filth or other contamination by cleaning or laundering and by subjection to heat sterilization and subsequently protected from contamination until such refilling. No person himself or by his agent shall refill any previously used paper or cardboard bag, carton or box as a container for flour or meal for purposes of distribution.

The proprietor of a bakery and all other persons, having custody of empty containers which are intended for refilling as herein provided shall handle or store such empty containers in such a manner as to keep them free from infestation, dirt, filth and other forms of contamination."

(Amend Regulation 9 by adding the following two new paragraphs:-)

"No person shall place or cause or permit to be placed in a secondhand or used carton or packing case or other receptacle made of absorbent or non-impervious material any bakery product which is not wrapped or which is not in package form, and in no case shall he employ for such purpose any previously used receptacle having any objectionable odor or which is soiled or greasy or which contains or is impregnated with any substance affording an attraction for flies, rodents or other vermin.

"No person shall place or cause or permit to be placed in a vehicle for the purpose of distribution and no person shall distribute or cause or permit to be distributed from a vehicle, any bakery product which is not wrapped or which is not in package form unless such products are enclosed in clean covered containers."

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on January 10, 1950.





dling. Such protective covering shall be kept clean and shall not include netting.

REGULATION No. 10.—No person shall smoke, chew, or otherwise use tobacco in any part of the bakery where the preparation or production of bakery products is carried on.

REGULATION No. 11.—Every owner or proprietor of a bakery shall provide a suitable, properly covered, metal, water-tight receptacle for garbage and other waste material of the business and shall cause such receptacle to be frequently emptied and to be cleaned after such emptying.

REGULATION No. 12.—Bakers making daily deliveries of bread and rolls to dealers for re-sale shall have the right to substitute fresh bread and rolls on next daily delivery for bread and rolls remaining in possession of said dealers, if it appears that delay in sale by the dealer thereof may cause such bread and rolls to reach the consumer in an unsatisfactory condition. No dealer shall return to the baker any mouldy bread and no baker shall accept for exchange any mouldy bread. No baker operating a retail store shall return any mouldy bread from such store to the bakery.

The returned bread and rolls shall be segregated in the plant of the baker, shall have the original wrappers removed and shall not be re-sold by the baker to dealers as fresh bread or rolls.

The returned bread and rolls in wholesome condition may be sold by the baker for human consumption as "Stale bread".

The stale bread and rolls not in wholesome condition shall be forthwith cut or broken up and made unsalable for human food, but may be sold for animal consumption.

Each loaf or package of "stale bread" sold by the baker for human consumption shall have attached thereto either a label or wrapper upon which is printed the words "stale bread."

REGULATION No. 13.—No person shall establish a new bakery in a cellar or basement except with the

consent of the board of health. The board of health may permit a new bakery to be established in a cellar or basement provided that the products of such bakery are sold or delivered exclusively in the town where the bakery is located.

No new bakery shall be opened until it has been registered with the board of health.

If a bakery now existent shall change ownership, a new registration shall be made before work begins under the new management.

REGULATION No. 14.—The form of notice sent under the provisions of Section 9L of Chapter 94 of the General Laws, ordering a bakery to be closed, shall be as follows:—

Dear Sir:—Your bakery is hereby ordered closed in accordance with the provisions of Section 9L of Chapter 94 of the General Laws, as follows:—

SECTION 9L.—If a bakery is unfit for the production or handling of food, or dangerous to the health of its employees, the department or local board may order it closed; provided, that any person aggrieved may be heard before said department or board and may also appeal before or after the execution of the order, but within thirty days after its issue, to the superior court.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 2/14/33.

ACTS OF 1907, 550.

BAKERIES SHALL NOT BE MAINTAINED IN TENEMENT HOUSES IN BOSTON UNLESS FIREPROOF

SECTION 53. No bakery and no place of business in which fat is boiled shall be maintained in any tenement house which is not fireproof throughout, unless the ceiling and side walls of said bakery or of the said place where fat boiling is done are made safe by fireproof materials around the same, and there shall be no openings either by door or window, dumb-waiter shafts or otherwise, between said bakery or said place where fat is boiled in any tenement house and the other parts of the building.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO DEFINITION OF "PASTEURIZED MILK." - *superseded - see green pages*

The Department of Public Health, acting under the authority of Section 1, Chapter 94 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 158 of the Acts of 1932, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

The term "pasteurized milk" may, in addition to such milk treated as prescribed in section 1 of chapter 94 of the General Laws as amended by chapter 158 of the Acts of 1932, be applied to any natural cow's milk heated to a temperature of not less than 161° Fahrenheit for a period of not less than fifteen seconds and then immediately cooled to a temperature of 50° Fahrenheit or lower provided that such pasteurization be performed in establishments duly licensed and operated in accordance with the regulations of the department of public health.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 7/8/41.

The Commonwealth of Massachusetts Department of Public Health

The Regulations of the Department of Public Health Relating to the pasteurization of Milk, made under the provisions of section 48 A of chapter 94 of the General Laws, as appearing in the Tercentenary Edition, are hereby amended by inserting in Regulation No. 5, as amended, the following Regulation:—

#### HIGH TEMPERATURE, SHORT TIME PASTEURIZING APPARATUS

(a) Each apparatus to be used for pasteurization at a temperature above 142° Fahrenheit for a period of time less than thirty minutes shall be equipped with a so-called flow diversion valve located at the outlet of the holding section of the pasteurizer so constructed, installed and maintained that when the temperature of the milk at the outlet of the apparatus falls below 161° Fahrenheit all the milk shall be diverted from the pasteurized supply and either be recirculated as raw milk or be diverted outside of the apparatus and shall continue to be so diverted until the temperature of the milk reaches 161.5° Fahrenheit.

Such flow diversion valve shall be constructed, installed and maintained in such a manner that it will at all times meet the following specifications:

(a-1) The valve will operate to divert the milk within 0.5 seconds after the falling temperature of the milk reaches 160.9° Fahrenheit.

(a-2) Such valve will operate to divert the milk when the primary motivating power shall fail.

(a-3) Such valve shall be leak escape protected so that when the valve is in diverted position no milk can leak into the outlet line.

(a-4) The "cut-out" mechanism of the flow diversion valve shall be independent of the temperature pen-arm response such as by means of separate elements actuated by the same bulb system.

(b) Each apparatus using regenerative heating and cooling shall be so constructed and maintained that the pasturized milk shall at all times be under greater pressure than the raw milk on the opposite side of the heat exchange element.

(c) Each apparatus shall at all times during the pasteurization period contain in the outlet of the holding section of the pasteurizer a mercury in glass thermometer which conforms to the following specifications:

(c-1) The thermometer shall be accurate to within 0.5° Fahrenheit between the temperature of 155° to 165° Fahrenheit.

(c-2) The thermometer shall have a vertical scale the smallest division of which shall not be more than 0.5° Fahrenheit and not less than 1/16 inch apart.

(c-3) The glass stem shall be etched at 160° Fahrenheit.

(c-4) When the thermometer is at room temperature and is then immersed in a well-stirred water bath of such temperature that the thermometer to be tested reads 160° Fahrenheit the time required for the reading to increase from 141° to 153° shall not be more than four seconds.

(d) Each licensee shall use the indicating thermometer and not the recording thermometer to be used as an index of the temperature of the milk.

(e) Each apparatus shall at all times during the pasteurizing period contain in close proximity to the indicating thermometer bulb and immediately upstream from the flow diversion valve a second bulb containing the actuating elements for (1) a recording thermometer and (2) a flow diversion valve.

(f) Each licensee shall cause to be kept connected to this recording thermometer bulb a recording thermometer which conforms to the following specifications:

(f-1) The reading of the thermometer on the chart shall at no time differ more than 1° Fahrenheit between the temperatures of 157° and 162° Fahrenheit from the simultaneous reading of the corresponding indicating thermometer.

(f-2) The recording thermometer shall be provided with an extra pen-arm which shall at all times



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH

RULES AND REGULATIONS

RELATIVE TO ESTABLISHMENTS FOR PASTEURIZATION  
OF MILK

(To be inserted in place of Pp. 262, 263, 264,  
265 and 266)

Definition of "Pasteurized Milk" as contained  
in Section 1 of Chapter 94 of the General Laws  
as appearing in the Tercentenary Edition there-  
of as amended by Chapter 158 of the Acts of  
1932.

"Pasteurized milk", natural cow's milk not  
more than seventy-two hours old, when pasteuriz-  
ed, subjected for a period of not less than  
thirty minutes to a temperature of not less  
than one hundred and forty-two degrees Fahren-  
heit, or to such higher temperatures for such  
intervals as the department of public health  
may from time to time determine, and in any  
case immediately thereafter cooled to a tempera-  
ture of fifty degrees Fahrenheit or lower.

The Department of Public Health acting under  
the authority of Section 48A, Chapter 94 of  
the General Laws appearing in the Tercentenary  
Edition thereof, as amended by Chapter 158 of  
the Acts of 1932 and every other act thereto  
enabling hereby prescribes and establishes the  
following rules and regulations.

REGULATIONS

REGULATION NO. 1.--All persons desiring a  
license to maintain an establishment for the  
pasteurization of milk shall make application  
in duplicate to the Board of Health of the  
town where the establishment is to be located  
and in the name of the owner of the business.  
This application shall be in the following  
form:

To be filled out in duplicate  
....., Mass., , , , 19....  
TO THE BOARD OF HEALTH OF .....

Application is hereby made for a LICENSE to  
maintain an establishment for the PASTEURIZA-  
TION OF MILK. ....

.....  
Location of business. ....

Make and type of pasteurization apparatus. .

Temperature and time at which milk is to be  
pasteurized. ....  
Type of building construction. ....  
Number of rooms for handling and processing  
milk. ....  
Estimated quantity of milk to be pasteurized .  
daily. ....  
Estimated number of employees engaged in the  
establishment. ....  
Number of employees who have had Typhoid Fever  
.....

I have. . . received a copy of the regulations

This is to certify that this establishment  
is in compliance with the Regulations of the  
Massachusetts Department of Public Health Rela-  
tive to Establishments for the PASTEURIZATION  
OF MILK and otherwise in accordance with the  
provisions of Chapter 259 of the Acts of 1927.

Signature of Applicant

License Granted:

Date. ....

Persons not previously licensed shall file  
with the application a sketch indicating the  
construction of the building and the installa-  
tion of machinery. Persons desiring a renewal  
of a license shall file a sketch indicating  
any changes in such construction and installa-  
tion since the license was issued.

REGULATION NO. 2.--Upon receipt of an appli-  
cation for a license, the Board of Health shall  
cause an examination of the building and equip-  
ment to be made, and if the establishment is  
found to be in conformance with these regula-  
tions and otherwise complies with the regula-  
tions issued by the Board under the provisions  
of Section 41 and 43 of Chapter 94 of the  
General Laws, the Board shall issue in the  
name of the owner of the business, a license  
for twelve calendar months. The Board shall  
retain one copy of the application and shall  
send the other copy bearing a statement of the  
Board's action thereon to the Department.

REGULATION NO. 3.--The license may be issued  
in the following form:

....., Mass., , , , 19. . .  
THE BOARD OF HEALTH OF .....

Hereby grants a LICENSE

.....  
of. ....  
to maintain an establishment for the PASTEURI-  
ZATION OF MILK at. ....

for a period of twelve calendar months from this date, subject to the Rules and Regulations of the Massachusetts Department of Public Health Relative to Establishments for the PASTEURIZATION OF MILK, and to the provisions of Chapter 259 of the Acts of 1927.

.....  
.....  
.....  
Number     Board of Health of .....

Each licensee shall conspicuously display the license upon the licensed premises.

REGULATION NO. 4.--Each licensee shall, prior to the holding period, cause all milk intended for pasteurization to be so clarified or filtered that the product shall be free from all visible dirt or sediment.

If any absorbent materials are used for such purposes they shall be clean and sanitary and shall be used once only and not subsequently used for any other purpose in connection with milk handling.

REGULATION NO. 5.--Each licensee shall cause the apparatus to be constructed and operated in accordance with the following specifications and with these regulations, and no Board of Health shall grant any license and any license so granted may be suspended if the apparatus is not so constructed or so operated.

#### VAT TYPE APPARATUS

(a) The apparatus shall be so designed that the milk will be agitated during the entire holding period.

(b) The apparatus shall be so designed and so equipped with valves as to be free from "cold pockets" or pipe sections, the milk in which will drop below the temperature of pasteurization before discharge from the vat.

(c) The vat shall be either disconnected entirely during the holding period from any influent piping, and during the filling, heating, and holding period from the effluent piping and fittings or provided with leak-escape valves which will not permit any unpasteurized milk to enter the vat during the holding period or any incompletely pasteurized milk to escape into the effluent piping and fillings. All new vats installed after January 1, 1951, shall be equipped with a leak-escape outlet valve.

(d) The lids of vats shall be kept closed during the holding period, and be so designed that when opened nothing on top thereof will drop into the vat.

(e) Every vat shall be provided with an indicating mercury in glass thermometer, as well as a recording thermometer. The indicating thermometer shall be accurate within 1 degree F. The licensee shall cause each recording thermometer to be checked daily. The licensee shall cause the indicating thermometer and not the recording thermometer to be used as an index of temperature of the milk and shall cause such thermometer to be so located as to give the correct temperature of the milk in the vat and so as to be easily read.

(f) The vat and all effluent piping and fittings, including any homogenization equipment, the cooler and bottle-filling equipment, shall be subjected to one of the following treatments shortly before the pasteurization process:--

1. The vat shall be completely filled with hot water at a temperature in excess of 180 degrees F. and subsequently discharged through the system for such period as to maintain continuous exposure of all surfaces with which pasteurized milk may subsequently come in contact to such hot water at a temperature of not less than 180 degrees F. for a period of not less than ten minutes. In the case of multiple vats having common outlet connections, one of such vats shall be filled with hot water as herein required and the remaining vats may, as an alternative procedure be treated with live steam upon all interior surfaces for a period of not less than sixty seconds or be subjected to the treatment of method 2.

2. In those plants in which an approved water supply is limited as to quantity or in which the procedure of method 1 would result in economic hardship, the surfaces of the aforesaid equipment which may come in contact with pasteurized milk shall be subjected to the continuous action of a chlorine solution containing at least one hundred parts per million of active chlorine for a period of at least fifteen seconds. Other commercial compounds of equivalent sanitizing properties may be substituted for the chlorine when used in the concentration recommended by the manufacturer thereof and when such use does not result in contamination of the milk.



3. Treatment of said surfaces with live steam for a period of at least sixty seconds.

(g) Designs which permit foam formation shall be equipped with a device which will keep the atmosphere above the body of the milk to at least pasteurizing temperature during the holding period.

(h) If the unpasteurized milk is placed into the apparatus by means of a pump or pipe line the licensee shall not use this pump or pipe line to remove the pasteurized milk from the apparatus.

#### POCKET TYPE APPARATUS

(A series of separate vats or tanks shall not be construed to mean "pocket type apparatus".)

(a) The apparatus shall be so designed as to be free from "cold pockets" or pipe sections, the milk in which will drop below the temperature of pasteurization before discharge from the pocket.

(b) Influent as well as effluent manifolds shall be provided with both indicating mercury in glass thermometers and recording thermometers. Indicating thermometers shall be accurate within 1 degree F. and shall be so located as to give the correct temperature of the milk as it enters and leaves the apparatus and so as to be easily read. The indicating, and not the recording, thermometers shall be used as an index of temperature by the operator.

(c) All influent and effluent fittings shall be so designed as not to permit any unpasteurized milk to enter the pocket during the holding period, or incompletely pasteurized milk to enter the effluent manifold.

(d) Lids of pockets shall be kept closed during the holding period, and be so designed that when opened nothing on top thereof will drop into the pocket.

(e) Designs which permit foam formation shall be equipped with a device which will keep the atmosphere above the body of the milk to at least pasteurizing temperature during the holding period.

(f) All effluent fittings shall be sterilized by hot water or steam, either manually or automatically, shortly before the discharge of the pasteurized milk.

#### HIGH TEMPERATURE, SHORT TIME PASTEURIZING APPARATUS

(a) Each apparatus to be used for pasteurization at a temperature above 142° Fahrenheit for a period of time less than thirty minutes shall be equipped with a so-called flow diver-

sion valve located at the outlet of the holding section of the pasteurizer so constructed, installed and maintained that when the temperature of the milk at the outlet of the apparatus falls below 161° Fahrenheit all the milk shall be diverted from the pasteurized supply and either be recirculated as raw milk or be diverted outside of the apparatus and shall continue to be so diverted until the temperature of the milk reaches 161.5° Fahrenheit.

Such flow diversion valve shall be constructed, installed and maintained in such a manner that it will at all times meet the following specifications:

(a-1) The valve will operate to divert the milk within 0.5 seconds after the falling temperature of the milk reaches 160.9° Fahrenheit.

(a-2) Such valve will operate to divert the milk when the primary motivating power shall fail.

(a-3) Such valve shall be leak escape protected so that when the valve is in diverted position no milk can leak into the outlet line.

(a-4) The "cut out" mechanism of the flow diversion valve shall be independent of the temperature pen-arm response such as by means of separate elements actuated by the same bulb system.

(b) Each apparatus using regenerative heating and cooling shall be so constructed and maintained that the pasteurized milk shall at all times be under greater pressure than the raw milk on the opposite side of the heat exchange element.

(c) Each apparatus shall at all times during the pasteurization period contain in the outlet of the holding section of the pasteurizer a mercury in glass thermometer which conforms to the following specifications:

(c-1) The thermometer shall be accurate to within 0.5° Fahrenheit between the temperatures of 155° - 165° Fahrenheit.

(c-2) The thermometer shall have a vertical scale the smallest division of which shall not be more than 0.5° Fahrenheit and not less than 1/16 inch apart.

(c-3) The glass stem shall be etched at 160° Fahrenheit.

(c-4) When the thermometer is at room temperature and is then immersed in a well-stirred water bath of such temperature that the thermometer to be tested reads 160° Fahrenheit the time required for the reading to increase from 141° to 153° shall not be more than four seconds.

(d) Each licensee shall use the indicating thermometer and not the recording thermometer to be used as an index of the temperature of the milk.

(e) Each apparatus shall at all times during the pasteurizing period contain in close proximity to the indicating thermometer bulb and immediately upstream from the flow diversion valve a second bulb containing the actuating elements for (1) a recording thermometer and (2) a flow diversion valve.

(f) Each licensee shall cause to be kept connected to this recording thermometer bulb a recording thermometer which conforms to the following specifications:

(f-1) The reading of the thermometer on the chart shall at no time differ more than 1° Fahrenheit between the temperatures of 157° and 162° Fahrenheit from the simultaneous reading of the corresponding indicating thermometer

(f-2) The recording thermometer shall be provided with an extra pen-arm which shall at all times indicate the time and duration of any operation of the flow diversion valve.

(f-3) The scale divisions on the chart between the temperatures of 150° and 165° Fahrenheit shall not be more than 1° and not less than 1/16 inch apart.

(f-4) The pen of the recording thermometer shall be so constructed and maintained that the line drawn by it shall not be wider than 1/4 of the smallest scale division of the chart.

(g) The apparatus shall be so constructed that there shall be no addition of heat to the milk during the holding period.

(h) Each licensee shall provide and install equipment of such construction that the speed of the pump may be sealed at the maximum rate of operation so that the speed of the pump cannot be increased without breaking the seal.

Each licensee shall provide and install equipment of such construction that the temperature at which the flow diversion valve operates may be sealed and cannot be changed without breaking the seal.

No licensee or servant or agent shall break or permit to be broken any seal which may be placed upon any part of the apparatus by an authorized inspectional authority except upon written permission from such authority.

(j) Each licensee shall cause the temperature control of the apparatus during pasteurization to be operated automatically and not manually.

(k) No licensee or servant or agent shall change or permit to be changed the arrangement of the apparatus not add or permit to be added to the system any apparatus nor make any change whatever which might tend to change the time or temperature of the milk during the holding period after a test has been made by proper inspectional authorities without permission in writing from the board of health granting the license or from the Massachusetts Department of Public Health.

(m) Each licensee shall once each week, time the speed during which the milk passes through the holder with the pump operating at its maximum capacity, and for this purpose shall cause to be attached to the holder suitable attachments by means of which the holding period may be accurately timed.

(n) Before beginning the day's work each licensee shall cause the action of each flow diversion valve to be checked by lowering the temperature of the liquid passing through the pasteurizer at a rate of not over one degree for each thirty seconds until the flow diversion valve operates, and he shall record or cause to be recorded on each recording thermometer chart the following data:

Date:

Identification of the equipment (if more than one unit is used):

Time of testing

Reading of indicating (mercury) thermometer when valve diverted:

Reading of indicating (mercury) thermometer when valve resumes flow:

Signature or initials of operator making check:

(n-1) Immediately prior to pasteurization the licensee shall subject all holding equipment, all effluent piping and fittings including the cooler and bottle-filling equipment to treatment by hot water or steam, either manually or automatically. The continuous passage through such equipment and subsequent discharge of hot water at a temperature exceeding 180° Fahrenheit in such quantity as to fill completely the holding equipment and effluent piping and fittings herein referred to and for such period which will result in the discharge of hot water at a temperature not less than 180° Fahrenheit at the final point of discharge will be deemed compliance with this regulation.



(o) Each licensee shall cause the apparatus to be taken apart and cleaned at the close of each day's work or oftener if necessary.

(p) No licensee shall permit the operation of any high temperature short time pasteurizing apparatus by other than trained operators who have been thoroughly and correctly instructed as to the construction and operation of the apparatus.

#### PASTEURIZATION IN THE FINAL CONTAINER

Pasteurization in the final container shall be carried on so that the entire contents of the container are heated to the legal temperature for the legal length of time.

All new exposed-surface coolers installed after January 1, 1958, shall be provided with covers adequate to protect the cooler surfaces from dust, flies and filth.

REGULATION NO. 5A.--Each licensee shall permit only a properly qualified person, approved by the Department of Public Health, to perform the actual work of pasteurization. Each licensee shall submit to the Department of Public Health the name of the person or persons in his employ selected for the operation of pasteurization equipment upon a form to be obtained from the department. After January 1, 1951, no person who has not been approved by the department shall operate pasteurization equipment. Approval may be withheld and approval already granted may be withdrawn if the department finds an operator not to be qualified through an understanding of the reasons and procedures in connection with pasteurization of milk or if the work of pasteurization is not performed satisfactorily.

REGULATION NO. 6.--Each licensee shall cause a chart which has not previously been used, and dated with the year, month and day of the month to be placed upon each recording thermometer upon each day when milk is to be pasteurized. Each licensee shall each day cause each recording thermometer to be checked against the corresponding indicating thermometer during the thirty-minute holding period, and shall record or cause to be recorded upon the chart the readings of each thermometer and the time of observation. Each licensee shall keep each thermogram of pasteurization temperature on file for a period of not less than twelve

months at the premises covered by the license. The recording thermometer record of pasteurization shall also include a thermogram representing the entire cooling period.

Each licensee shall make suitable arrangements to replace within 36 hours any recording thermometer which is broken or becomes grossly inaccurate. Each licensee when obtaining a new recording thermometer shall obtain one using charts with temperature intervals of not more than one degree at the pasteurization temperatures.

REGULATION NO. 7.--Each licensee shall cause the establishment covered by the license to be maintained and operated in a clean, healthful and sanitary manner.

All apparatus used in pasteurization of milk must be so constructed that it can be easily taken apart for cleaning, and adequate facilities for the sterilization of such apparatus and of all containers used in the handling and storage of milk must be provided by the licensee.

Each licensee shall cause all pipe lines, valves and fittings through which milk has passed, to be taken down each day and immediately cleaned as soon as the work of pasteurization has been completed.

This regulation shall not be construed to exclude the use of transparent glass piping or to prohibit the cleaning and sterilization of such piping in place provided that the method of cleaning and sterilization is adequate to prevent contamination of pasteurized milk.

All apparatus used in the pasteurization of milk, including exposed-surface coolers, shall be maintained free from portions showing exposed copper or brass. All surfaces upon pasteurization equipment with which milk comes in contact shall be free from lead, zinc and cadmium. This shall not be construed to prohibit the use of solder containing not more than 25% of lead in the emergency repair of pasteurization equipment.

REGULATION NO. 8.--Each establishment shall be adequately lighted and ventilated. All floors shall be smooth, water-tight, properly graded and drained, and if metal plates are used on the floor they shall be removed daily to allow the floor to be cleaned beneath them, and all objectionable wastes shall be disposed of into a public sewer, or by suitable sub-surface means so as not to create a nuisance.

Such disposal of waste shall in addition conform to regulations of the town where the establishment is located and, if on the watershed of a water supply, such means of disposal shall conform to the rules and regulations adopted by the department of public health for the sanitary protection of the source of water supply, if any. All walls and ceilings shall be smooth and tight and shall be kept clean by the licensee. The licensee shall take measures to exclude flies from rooms where milk is handled or processed. No stable, nor any room used for living or domestic purposes, shall communicate directly with any room in which milk is processed or in which utensils are washed.

REGULATION NO. 9.--Each licensee shall provide suitable toilet facilities for the use of employees, but no such toilet shall communicate directly with any room used for handling milk or milk products, or with any room in which utensils are washed. Privies or earth closets must be situated at least one hundred feet from the building and must be equipped with fly-proof vaults and self closing seat covers. Each licensee shall provide a suitable wash-room separate from the pasteurizing room with running water, soap and towels, for employees. The water used for any purpose in the pasteurization plant must be either from a public water supply or from a private water supply subject to the approval of the Department of Public Health. Ample hot water and steam shall be provided. Steam boilers and generators shall be located in rooms separated by partitions from those in which milk is processed, cooled or bottled or in which equipment or bottles are washed.

REGULATION NO. 10.--Each licensee shall clean and sterilize all weigh cans, storage vats, pumps, filters, clarifiers, and all other apparatus for the handling of milk, immediately after being used. Each licensee shall sterilize all bottles and cans used for holding pasteurized milk and protect them from contamination between the time of such sterilization and the time when they are filled.

Bottle filling machines shall be provided with suitable deflectors attached to each filling nozzle to prevent condensation, leakage or foreign substances from entering bottle at time of filling. If automatic conveyors are employed to transfer bottles in upright position between bottle washer and filler, suitable

hoods or shields shall be provided over entire length of conveyor to protect bottles from contamination and guard against entrance of foreign substances.

REGULATION NO. 11.--Each licensee shall, upon the premises where the milk is pasteurized cause all pasteurized milk to be put into containers sterilized and protected as provided in Regulation No. 10, and shall cause such containers to be immediately capped, and in the case of bottles, by a machine capper. All bottle caps must be purchased and stored in tubes and each cap shall bear the word "pasteurized". Each licensee shall provide a clean and dry place for the storage of caps. When bottled, pasteurized milk of whatever grade shall be bottled immediately after pasteurization and only at the place where such milk is pasteurized.

That portion of this regulation relating only to bottling milk upon the premises where it is pasteurized, shall not apply to cream, but each licensee bottling pasteurized cream on premises elsewhere than where such cream is pasteurized, shall cap such bottles with a machine capper.

No licensee shall deliver or have in possession with intent to deliver from the licensed establishment any pasteurized milk showing a count of more than forty thousand colonies per cubic centimeter as determined by the standard plate methods of the American Public Health Association in use at the time the examination is made and in the case of cream not more than one hundred thousand such colonies. Each count shall be the median of the analyses of not less than three samples taken from different containers at substantially the same time.

No licensee shall deliver or have in possession with intent to deliver any pasteurized milk showing a count of more than three colonies of organisms of the coliform group per cubic centimeter as determined by the standard methods of the American Public Health Association.

No licensee shall use for pasteurization purposes any milk showing a count greater than four hundred thousand colonies per cubic centimeter.

If the licensee receives information that the milk of any dairy showed upon examination a count exceeding 400,000 colonies per cubic centimeter or that it contains bacteria of types which will not reduce to 40,000 colonies or less per cubic centimeter after pasteurizing,



he shall exclude such milk from subsequent pasteurization until such time as he has ascertained that the milk from such dairy shows a count less than 400,000 colonies per cubic centimeter and will reduce to 40,000 colonies or less per cubic centimeter after pasteurizing.

It is suggested that in order to ascertain the quality of the milk being used for pasteurization purposes that the licensee shall

at least twice a month cause the milk of each dairy to be examined either by the methylene blue reductase method or preferably by the standard plate method.

The foregoing regulations shall become effective January 1, 1951.

Adopted by the Massachusetts Department of Public Health on June 15, 1950.





THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH

**Rules and Regulations Relative to Cross Connections Between Public Water Supplies and Fire and Industrial Water Supplies.**

The Department of Public Health, acting under the authority of Section 160 of Chapter III of the General Laws (Tercentenary Edition) and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations relative to cross connections between public water supplies and fire and industrial water supplies, which shall remain in force until further ordered and which may be hereafter from time to time amended or added to by the Department of Public Health. The provisions of the following rules and regulations, as far as they are the same as those of the existing rules and regulations, shall be construed as a continuation thereof and not as new provisions. The rules and regulations adopted on February 9, 1937, and amended on May 12, 1942, and February 8, 1949, are hereby repealed.

Rule 1. After December 31, 1937, no physical connection between the distribution system of a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, and that of any other water supply shall be permitted.

(a) unless such other water supply is approved by the Department of Public Health as being of safe sanitary quality and the connection of both supplies is approved by the Department of Public Health or

(b) unless the connection includes two gate valves with suitable indicators and two check valves with drip cocks, gages for testing, all located in a pit or room having facilities for draining and readily accessible for periodic inspection and overhauling of the equipment or

(c) unless the connection includes other adequate backflow prevention device, and

(d) unless the designs shall have previously been approved by the Department of Public Health and the entire installation and the maintenance meet with the approval of the Department of Public Health

No officer, board, corporation or other person or group of persons, owning or having the management or control of any water supply, the water of which is furnished to any municipality or district for drinking and/or domestic and/or culinary purposes shall supply water to any person, firm or corporation maintaining a connection which does not meet with the approval of the Department of Public Health.

Rule 2. If a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, is used as an auxiliary supply delivered to a tank also supplied with water from a source with which cross connections are not permitted by Rule 1, such tank shall be subject to the approval of the Department of Public Health and shall be open to atmospheric pressure and the water shall be supplied to the tank above the maximum level of water in the tank. The tank overflow shall be of adequate size to fix definitely the maximum level.

If the water supply is stored in a tank supplied only from a water supply approved by the Department of Public Health for drinking and/or domestic and/or culinary purposes and directly connected to a water supply, also approved by the said Department of Public Health, such tank shall be so constructed as to avoid any possible contamination of the water in the tank and shall be subject to the approval of the Department of Public Health.

Prescribed and established by the Department of Public Health at the Meeting of its Public Health Council held on October 9, 1951.





## Department of Public Health

## RULES AND REGULATIONS

RELATIVE TO PHYSICAL EXAMINATION OF SCHOOL  
CHILDREN IN MASSACHUSETTS

The Department of Public Health, Acting under the authority of Section 57, Chapter 71 of the General Laws, Tercentenary Edition, as amended by Chapter 502 of the Acts of 1951 hereby prescribes and establishes the following rules and regulations relative to the physical examination of school children. These regulations become effective on September 1, 1952.

Regulations for Medical Examination of School  
Children in Massachusetts

## PREAMBLE

The purpose of these regulations is to discover disabilities of school children as soon as possible so as to enable all children to obtain the fullest benefit of their educational opportunities and to insure that diseases dangerous to the public health and other contagious or communicable diseases are recognized whenever they occur.

The school health program should encourage the performance of the health appraisal by the family's own physician whenever possible. The results of the family physician's examination shall be recorded on health record forms supplied by the State Department of Public Health through the schools or on such health record forms as are supplied by the schools, after approval by the Department of Public Health. A copy of this record containing the results of the examination and the physician's recommendations shall be returned to the school. The family physician performing the health appraisal of a school child shall be furnished with a copy of the records of screening tests performed in the school.

The school committee or the board of health shall provide the services of a school physician to carry out health appraisal on such children as do not have this service performed by the family physician. He shall carry on other responsibilities of the school health program including (1) interpretation of the child's Health situation to the school personnel. (2) assistance to the teacher and nurse in meeting the health needs of the child insofar as this is possible in the school environment, and (3) interpretation of the school health program to the family physician and parent. The services

of the school physician shall be coordinated in the total school health program. He shall be responsible for the control of communicable disease and give assistance in the formulation of the health education program.

## REGULATIONS

1. The school committee or board of health shall cause every child in the public schools to be separately and carefully examined by a physician duly registered in Massachusetts within six months before entrance to school or during the first year after entrance and at intervals of either three or four years thereafter. A child transferred from another school system shall be examined as an entering child unless school health records are transferred with the child showing that he has had an adequate health appraisal in the school year of transfer.
2. The school committee or the board of health shall cause children in the public schools to be separately and carefully examined by a duly registered physician under the following circumstances:
  - 2.1 Children returning after an absence from school of five consecutive school days or more due to illness.
  - 2.2 Children referred because of frequent absences due to unexplained illnesses.
  - 2.3 Children referred because of known physical defects that require repeated appraisal.
  - 2.4 Children referred from teacher-nurse conferences because the child is not making expected progress in school or because of signs of illness noted by the teacher or nurse.
  - 2.5 Children under 16 and over 14 years of age requesting employment certificates.
  - 2.6 Children planning to participate in competitive athletics annually, previous to such participation.

3. The school committee or board of health shall regularly make provision that each child may meet with the school physician in conference, with or without the presence of a third person at the discretion of the physician.
4. The school committee or board of health shall cause the vision and hearing of each child in the public schools to be tested in the first grade and every second year thereafter.
  - 4.1 The hearing of each child shall be tested by means of some form of discrete frequency hearing test such as the Massachusetts Hearing Test.
  - 4.2 The vision of each child shall be tested by means of the Massachusetts Vision Test.
  - 4.3 Tests of sight and hearing shall be performed by teachers, physicians, optometrists, nurses or others who are approved by the Massachusetts Department of Public Health for this purpose and in accordance with instructions set up by the Department. (Such personnel may request necessary training from the Massachusetts Department of Public Health. The Department's instructions regarding vision and hearing testing may be procured from the Division of Maternal and Child Health, 88 Broad Street, Boston.)
5. The school committee or board of health shall cause each child's weight and height to be measured annually.
6. The health appraisal shall be done with such care and detail as to command medical respect and be a desirable educational experience for the child. Rectal and vaginal examinations shall not be done by the school physician.
  - 6.1 All appraisals shall be done in the presence of a third person and in a reasonable degree of privacy. The child shall be undressed sufficiently to permit an adequate appraisal.
  - 6.2 Sufficient time shall be allotted for an adequate appraisal of each child.
  - 6.3 The appraisal shall include time for a conference with the parent or child concerning the child's growth and development and the findings of the health appraisal.
  - 6.4 The school authorities shall invite the parent or parents of the entering child and of the child in the fourth grade to be present during the appraisal by the physician.
7. Disabilities and defects found on health appraisal of an individual child shall be brought to the attention of the family. The school or health department shall encourage the family to take the child with physical defects to the family physician or other source of care.
8. The school physician shall examine at any time, including the required intervals, and previous to participation in competitive athletics, each child to determine the presence or absence of diseases dangerous to the public health and other communicable or contagious diseases, in consonance with the last line of Section 57 of Chapter 71 of the General Laws as most recently amended by Chapter 502 of the Acts of 1951.
9. The above are minimum regulations for the examination of school children in Massachusetts. The school committee or board of health may provide for more frequent and more specialized examinations or both if it wishes to do so.
10. Results of these health appraisals shall be recorded in detail on health record forms provided by or approved by the Massachusetts Department of Public Health.

Approved and adopted at meeting of Department of Public Health March 11, 1952.



THE COMMONWEALTH OF MASSACHUSETTS

Department of Public Health

RULES & REGULATIONS  
RELATIVE TO THE USE OF BLOOD OR  
OTHER TISSUES FOR  
PURPOSES OF TRANSFUSION

(To be inserted in place of pp. - 203 - 4 - 5)

The Department of Public Health, acting under the authority contained in Section 54, Chapter III of the General Laws, Tercentenary Edition, as amended by Chapter 16 of the Acts of 1943, and Section 72, Chapter III of the General Laws, Tercentenary Edition, as amended by Chapter 618 of the Acts of 1948, and every act thereto enabling, hereby prescribed and establishes the following rules and regulations relative to the use of blood or other tissues for the purpose of transfusion.

I. DEFINITIONS: The following terms as used in these regulations, unless a different meaning is specifically prescribed or required, shall have the following meanings:

- A. "Hospital" or "sanatorium" shall mean any institution however named, either conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution.
- B. "Dispensary" or "clinic" shall mean any place or establishment not conducted for profit, where medical, surgical, or dental advice or treatment, medicine or use of medical or dental apparatus is furnished to persons not residing therein or any place or establishment, whether conducted for charitable purposes or for profit, advertised, announced, conducted or maintained under the name "dispensary" or "clinic" or other designation of like import, except that it shall not include a clinic conducted by a hospital which is licensed as an integral part of such hospital.

- C. "Department" shall mean the Massachusetts Department of Public Health.
- D. "Blood Bank" shall be an establishment for the procuring, classifying, storing or dispensing of preserved human blood for transfusion purposes.
- E. All adjectives and adverbs such as acceptable, adequate, approved, clean, good, proper, qualified, reasonable, reliable, reputable, safe, sanitary and/or suitable, as used in these rules and regulations, to qualify a person, process, technique, equipment or thing shall be as determined by the Department.

II. LICENSING:

- A. Blood banks shall be licensed as a part of a hospital (see Chapter 431, Acts of 1950) or clinic subject to the licensing regulations promulgated by the Department. Blood banks in hospitals or clinics shall be inspected at the same time and by the same authority inspecting hospitals and clinics in the Commonwealth, and at such other times as inspection is considered necessary by the inspecting authority. The clause in the hospital or clinic license enabling the hospital or clinic to operate a blood bank shall be revoked or suspended independently of the general license to operate a hospital or clinic, but shall not remain in force after the general license has been lost.

### III. EXAMINATION OF DONOR

A. Only those persons may serve as donors of blood for use for human transfusion or preparation of derivatives thereof who on the day of bleeding shall be determined to be free of the following conditions, as far as can be ascertained by history:

1. Acute or chronic infection of transmissible nature.
2. Syphilis past or present.
3. Malarial infection at any time, or residence in an endemic area within five years, but without manifestation of the disease. (The history of malarial fever or known exposure to malaria does not exclude the use of the blood for preparation of blood fractions or plasma).
4. Known or suspected infections hepatitis (catarrhal) jaundice or homologous serum jaundice) within the past 12 months, or exposure to a case now present in the donor's household, or otherwise in close contact. Blood from donors who have recovered from jaundice a year or more prior to phlebotomy and who meet the other physical requirements may be used for transfusion.
5. Any infectious skin disease, furunculosis or pyoderma.
6. Any active respiratory allergies such as asthma, hay fever, active urticaria or drug allergies.
7. Rh sensitization.
8. Pregnancy, or pregnancy within the past six months.
9. Tooth extraction or other dental surgery within 72 hours.

B. Donors shall meet the following minimum physical requirements:

1. Appear to be in good health.
2. Skin, mouth and conjunctive appear of normal color, free of lesions and not icteric.
3. Have an oral temperature not over 99.6° F.
4. Have a pulse of not over 120 or under 48 beats per minute.
5. Have a hemoglobin of at least 12.3 grams per 100 ml. of blood. Donors who have a blood specific gravity of not less than 1.053 by the copper sulfate method shall be acceptable.
6. Donors 60 years of age and over shall give blood only with the written consent of a physician. Minors under 21 years of age shall have proper written consent of parent or guardian before a blood donation can be made. Minors under 21 years of age but who are either married or on active duty in the armed forces shall be permitted to donate blood without consent of parent or guardian.

C. Donors shall have a blood pressure as specified below:

1. A donor shall not be acceptable unless his systolic pressure is between 100 mm. of mercury and 200 mm. of mercury.
2. Diastolic pressure readings of over 100 mm. of mercury shall be rechecked and any check reading over 110 mm. of mercury shall disqualify the prospective donor. The intervening readings 100 to 110 mm. of mercury shall be approved in each case only at the discretion of the physician-in-charge.



#### IV. COLLECTION OF THE BLOOD:

A. The method employed for the removal of the blood from the donor shall conform to the accepted standards of aseptic surgery and shall utilize a closed or vented system.

B. A closed or vented system shall be a system which permits the transfer of material without contamination through exposure to external conditions. If air is admitted it shall be through a filtered vent without rise of contamination.

C. The drawing of blood from the donor shall be performed in a suitable room having suitable space and equipment.

D. The blood shall be drawn by qualified personnel under the supervision of a qualified doctor of medicine or under the supervision of a medical scientist acceptable to the Department.

##### E. Donor identification

A system which carries through from donor to recipient shall be used to identify the blood. A suitable label or tie tag shall be made out for the donor at the time of completing the donor's history record. The label and history record must carry the same identification number. This label or tie tag shall accompany the donor to the bleeding room and be applied to the bleeding bottle with check of donor's identity with history record and tag or label.

##### F. Protection of Donor.

1. The method of skin preparation shall be adequate to protect the donor from infection due to blood collection or injections incidental to blood collection.

2. Apparatus or instruments such as lancets, needles, syringes, or other blood letting devices capable of transmitting infection to the donor shall be heat sterilized prior to use for each donor. Heat sterilization shall be by autoclaving for 15 minutes at

121.5°C. (250°F.) (15 lbs. pressure), by dry heat for two hours at 170°C. (335°F) or by boiling in water for 15 minutes at 100°C. (212°F.)

##### 3. Immediate Handling of Blood.

1. During the bleeding the anticoagulant and the entering blood shall be quickly and thoroughly mixed by adequate agitation. Violent shaking must be avoided.

2. Immediately after bleeding the blood shall be kept at a temperature of 4° to 10°C. (39° to 50°F.) -- the average must be 4° to 6°C. (39° to 43°F.) (freezing must be avoided at all times). If transportation of the blood is necessary, it shall be transported in shipping cases sufficiently refrigerated to hold the blood at 4° to 10° C. (39° to 50° F.). If the blood has not been cooled before shipping, the refrigerated case must be capable of cooling and holding the blood at 4° to 10°C. (39° to 50°F.) during transit. Dry ice should not be used for refrigeration. Immediately on arrival at the place of storage, the blood shall be stored and maintained within the temperature limits specified in the first sentence of this paragraph.

3. A pilot sample for laboratory test shall be provided and shall consist of one properly identified pilot tube attached to the bottle before, during, or immediately after bleeding. This tube and any additional pilot tubes shall be identified in the same manner as the bottles of blood prior to collection of the blood and all samples shall be collected by the individual collecting the blood.

#### H. Preparation of the Blood for Use.

1. The serological test: A serological test for syphilis shall be made on a specimen of blood taken from the donor at the time of bleeding, or within 5 days prior to the bleeding, and tested by a laboratory accredited by the Department, and the blood shall not be used for transfusion unless the result of the test is negative or the blood has been stored for 96 hours at the required storage temperature.

2. If the potential donor cannot establish freedom from recently acquired serologically negative syphilis to the satisfaction of the physician-in-charge, the matter shall be resolved by one of the three following methods:

- a. Rejection of the donor.
- b. Holding the blood for 96 hours at proper temperature.
- c. Diverting of the blood to other uses.

#### V. BLOOD GROUPING AND RH TYPING.

- A. No fresh or preserved whole blood or red cells shall be administered to a recipient unless the international blood group (A, B, O group) and Rh type (D Rh positive or D Rh negative) of both donor and recipient have been determined by methods currently acceptable to the Department of Public Health. This testing shall be done on the pilot tube sample and the findings must be made a part of the laboratory records and of the blood bottle label. Each blood shall be tested independently for its group by two workers or rechecked by the same worker using either or both of the two following methods:

1. A single grouping of the donor's red cells against satisfactory Anti-A and Anti-B grouping sera, followed by a second grouping test which uses the donor's serum against fresh A1 and B cells. If A1 cells not available, a pool of 5 A cell samples from A bloods taken at random shall be permitted.

2. Determine the grouping of the donor's cells independently against two satisfactory sets of Anti-A and Anti-B grouping sera.

3. Only Anti-A and Anti-B Blood Grouping Serums acceptable to the Massachusetts Department of Health shall be used.

4. All blood shall be cross-matched with that of the recipient before transfusion by a method capable of detecting Rh incompatibility.

- B. Rh typing shall be determined for each bottle of blood using an Anti-RHO (Anti-D) typing serum acceptable to the Department. In each negative result, the test must be repeated using another serum.

- C. Previous records of a donor's ABO group and Rh type shall not be relied on for identification of the blood as the record applies to the blood in a particular bottle rather than to a donor.

- D. Use of Group O blood for recipients of groups other than O (as "universal donor" blood).

1. Whenever Group O blood is used in the transfusion of other than Group O recipients, it shall be of low titer or be modified by the addition of A and B group-specific substances to each bleeding to neutralize the isoagglutins. The amounts added must be stated on the label and in the laboratory records. When such substances are used they shall be added just prior to the transfusion to minimize the risk of possible contamination.

2. If group O blood is to be used for transfusing persons of groups other than O, the Anti-A or Anti-B titre of the serum must be less than 1:100 if A and B group specific substances are not added, or 80% or more of the plasma must be removed prior to transfusion.



3. Only in extreme emergencies shall group O blood, of low titre, or modified as described above be administered without cross-matching.

E. Matching of Rh type: As a general ministered to Rh positive recipients and Rh negative blood to Rh negative recipients.

## VI. PLASMA AND SERUM

A. Plasma or serum for transfusion purposes shall be collected by a closed or vented method under strictly sterile conditions acceptable to the Department and shall be stored, without antibacterial preservative, in individual units prepared from large or small pools, as follows.

1. Plasma or serum shall be separated from cells or clot by methods acceptable to the Department.

### 2. Pooling methods:

- a. A homologous blood group pool shall be derived from 1-3 donations. The homologous group plasma or serum pooled in this manner shall be administered to compatible recipients, (Group A plasma to Group A recipient) etc. unless A and B specific substances are added or the titres of Anti-A and Anti-B are less than 1:100.

- b. Units of plasma or serum derived from heterologous blood groups by pooling 1-3 donations, regardless of type, shall be neutralized with A & B group specific substances just prior to administration, unless given to compatible recipients or unless the Anti-A and Anti-B titres are less than 1:100.

- c. Pools of more than 3 donations shall be irradiated by an acceptable method determined by the Department and available from the Institute of Laboratories, 375 South Street Jamaica Plain.

3. Sterility testing: The sterility testing of plasma shall be determined in accordance with procedures established by the Department and available from the Institute of Laboratories, 375 South Street, Jamaica Plain.

B. Storage - The product shall be stored as follows:

1. Liquid plasma: at 15° to 30°C. (59° to 86°F.)
2. Frozen plasma: at minus 18°C (0°F.) or lower.
3. Dried plasma: at not over 40°C. (104°F.)

### C. Expiration Date

1. Liquid plasma: 2 years, including date of bleeding the donor.
2. Frozen plasma: 5 years, including date of bleeding the donor.
3. Dried plasma: 5 years, including date of bleeding the donor.

D. If A. C. D. solution has been used as the preservative, the plasma shall be separated at any time up to and including 26 days from the date of bleeding the donor.

## VII. PRESERVATION OF ERYTHROCYTES:

### A. Preservative Solution

1. If the blood is to be used within 18 hours after bleeding the use of a properly sterilized citrate solution as an anticoagulant is permitted. The solution shall have the following formula:

Sodium citrate 40 gms  
Water for injection (USP) to  
make 100 ml.

The sodium citrate used shall be of C.P. or U.S.P. grade. This citrate solution shall be used in the ratio of 10 ml for each 100 ml of blood.

2. For the storage of blood longer than 18 hours and up to and including 21 days, it shall be drawn into an acid-citrate-dextrose (ACD) preservative solution. The formula for the ACD solution shall be as furnished by manufacturers of prepared bottles, acceptable to the Department, or if made by the hospital it shall be as follows:

	SOLUTION A	SOLUTION B
TRISODIUM CITRATE ( $\text{Na}_3\text{C}_6\text{H}_5\text{O}_7 \cdot 2\text{H}_2\text{O}$ )	2.20 GMS.	1.32 GMS.
CITRIC ACID ( $\text{H}_3\text{C}_6\text{H}_5\text{O}_7 \cdot \text{H}_2\text{O}$ )	0.80 GMS.	0.48 GMS.
DEXTROSE, ANHYDROUS ( $\text{C}_6\text{H}_{12}\text{O}_6$ )	2.25 GMS.	
OR		
DEXTROSE, U. S. P. ( $\text{C}_6\text{H}_{12}\text{O}_6 \cdot \text{H}_2\text{O}$ )	2.48 GMS.	1.47 GMS.
WATER FOR INJECTION (USP) TO MAKE	100.00 ML.	100.00 ML.
pH	5.0	5.0

C.P. GRADE OR U.S.P. GRADE CHEMICALS SHALL BE USED.

THE AMOUNT OF SOLUTION A TO BE USED SHALL BE 10 TO 15 ML. F  
FOR EACH 100 ML OF BLOOD AND FOR SOLUTION B THE AMOUNT  
USED SHALL BE 25 ML FOR EACH 100 ML OF BLOOD.

#### B. Dating period of whole blood

Whole blood preserved in A. C. D. solution may be used up to and including 21 days after bleeding, provided it shall have been kept continuously in the range of  $4^{\circ}\text{--}10^{\circ}\text{C}$  ( $39.2^{\circ}\text{--}50^{\circ}\text{F}$ ) with an average of  $4^{\circ}\text{--}6^{\circ}\text{C}$  ( $39^{\circ}$  to  $43^{\circ}\text{F}$ ) from immediately after bleeding to the time of use, and provided that the appearance of both the plasma and the cells at the time of use are within normal limits. Storage must be under the supervision of a qualified physician or a qualified medical scientist acceptable to the Department.

The red cells remaining after sedimentation or centrifugation if centrifuged within the first 48 hours after the blood has been drawn, are satisfactory for use up to and including 10 days after bleeding, providing the plasma shall have been aspirated under sterile precautions and that the red cells are dispensed from the same container in which the whole blood was drawn. An exception is permitted in that hospitals having adequate skill and supervision and sterile equipment may transfer the cells to their infusion equipment immediately before administration. An acceptable diluent for the transfusion of all cells from a 500 cc donation shall be 200 cc of a sterile isotonic solution of sodium chloride.

Sedimented red cells separated from the plasma after 48 hours but within 10 days of the date of bleeding shall be administered within 24 hours after drawing off the plasma. Centrifugation shall not be done on blood more than 48 hours old if the red cells are to be used for transfusion as it may cause hemolysis.

#### VIII. FILTRATION:

Preserved whole blood, red cells or plasma shall not be administered to a recipient except after passage through a filter not less than 100 mesh per square inch immediately prior to or during the transfusion.

#### IX. ASEPTIC TECHNIQUE IN HANDLING OF BLOOD:

Preserved whole blood shall not be transferred from its original container into another container, nor shall a bottle of blood be entered for any other purpose, unless blood so handled is given within 3 hours. Exceptions to this regulation are permissible under the following circumstances; in hospitals where the blood bank has full time technical supervision by professional personnel, and where it may be customary to recheck the blood type by entering the bottle, such entry is permissible at any time during the storage of the blood, provided the following precautions are observed:

- A. Strict aseptic precautions using separate entering equipment for each bottle.
- B. Periodic visual inspection of the blood with particular reference to the possibility of contamination as indicated by the gross appearance of the cells and plasma.
- C. Periodic sterility tests on random samples, allowing for detection of aerobic contaminants with duplicate samples incubated at  $35^{\circ}$  to  $37^{\circ}\text{C}$  ( $95^{\circ}$  to  $98.6^{\circ}\text{F}$ ;) and  $20^{\circ}$  to  $25^{\circ}\text{C}$  ( $66^{\circ}$  to  $77^{\circ}\text{F}$ ).

#### X. RECORDS AND IDENTIFICATION:

- A. Records shall be kept as follows:
  1. By the individual or agency responsible for drawing or processing of the blood:
 

In addition to a medical history as outlined in Section I, Paragraphs A and B above, the record shall include the following:  
Name, Age, Sex, Address,) of donor



International blood group and  
RH type.

Kind of serologic test performed  
and result of test with date.

Date of withdrawal of blood.

Name of person performing the  
bleeding.

2. By the physician responsible for  
administering the whole blood,  
red cells, plasma, serum, albumin,  
or blood substitute.

In addition to the record re-  
quired in Section X, Paragraph A.  
1, a separate record shall include  
the following:

Name        )  
Age         ) of recipient  
Sex         )  
Address    )  
Diagnosis)

Product, source and lot number,  
or other identifying designa-  
tion of the material adminis-  
tered.

Date administered

Amount administered

International blood group and Rh  
type of recipient and result of  
cross-matching with donor's  
blood if given whole blood, red  
cells, or homologous plasma.  
Reaction, if any, specify type  
of reaction.

3. An identification system shall be  
established so that when blood  
for transfusion is cross-matched  
with that of a prospective recip-  
ient the blood and the recipient's  
blood samples are properly identi-  
fied. This shall be done in such  
a manner that it is certain that  
the blood which is injected is  
that which was cross-matched for  
the recipient.

#### B. Labeling of the Blood

Each bottle of blood shall be label-  
ed at the time of bleeding using a  
tag firmly secured or a pasted label  
firmly attached. This tag or label  
when completed must meet the following  
minimum requirements:

1. Name of contents: Citrated (or  
ACD) Whole Blood (Human)
2. Approximate number of ml. of blood  
and of anticoagulant solution.
3. Donor's name or number by which  
donor can be identified.
4. Name of recipient.
5. Name or initials of person per-  
forming cross-matching and the  
date.
6. Blood group and Rh factor of the  
blood contained in the bottle.

#### XI. ADMINISTRATION OF THE BLOOD:

- A. When the blood is to be administered  
to the patient, it must again be iden-  
tified as the blood which was deter-  
mined to be safe for that recipient.

- B. The following precautions must be  
observed:

1. Check on identity of patient and  
blood he is to receive.
2. Thoroughly mix cells and plasma  
by gentle rotation of the bottle.
3. Use sterile pyrogen free intra-  
venous equipment with a filter in  
the line, if not otherwise filter-  
ed immediately prior to trans-  
fusion.
4. Do not add any medication to the  
bottle of blood prior to adminis-  
tration.
5. *Do not warm* the blood before ad-  
ministration.

- C. In case of an untoward reaction:

1. Discontinue the transfusion.
2. Return the blood bottle and con-  
tents to the blood bank labora-  
tory for investigation.

#### XII. EMERGENCIES:

These regulations shall not preclude the  
reasonable omission of any of the above  
requirements in:

- A. An emergency indicated in the records  
as such.
- B. An experimental study indicated in  
the records as such.

**XIII EFFECTIVE DATE:**

These regulations shall take effect upon filing with the Secretary of the Commonwealth. Blood banks not yet approved as a part of a hospital operation, by the

Department of Public Health, may continue in operation until inspected, provided they apply, in writing, for approval upon receipt of these regulations.



Rules and Regulations Relative to Establish-  
ments for the Pasteurization of Milk.

(To be inserted after Regulation No. 7, on  
Page 266, green sheet.) x

This regulation shall not be construed to exclude the in-place cleaning of pipe lines by methods and procedures approved by the Commissioner of Public Health. No person shall clean or sterilize in place such pipe lines without a special permit from the local health department or the local board of health. No such permit shall be issued without the approval of the Commissioner of Public Health. A local health department or a local board of health which has issued such a permit or the Commissioner of Public Health may declare any such permit null and void if the permittee fails to meet the conditions of the permit. Said permit shall authorize the use of a specific method and procedure with effective cleansing and sterilizing agents to be used in such a manner that the pipe lines shall be completely cleaned to the satisfaction of the local health department or local board of health and the Commissioner of Public Health.

Approved and Adopted October 20, 1953.





# The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH

## RULES AND REGULATIONS

### STANDARDS AND DEFINITIONS OF PURITY AND QUALITY OF FOOD.

The Department of Public Health, acting under the authority of Sections 188, 189, 192 and 193 Chapter 94 of the General Laws appearing in the Tercenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

#### HEARINGS

The hearings which may be required under Section 189 of Chapter 94 may be heard before the director of the Food and Drug Division of the Department of Public Health or in his absence, before the chief of laboratory of the Food and Drug Division, or before any other person designated by the Commissioner of Public Health. The hearings given under this section by boards of health of cities or towns may be held before any member or employee of the board so designated by such board.

#### GUARANTY

Each guaranty given under the provisions of Section 193 of Chapter 94 in order to afford protection to the person receiving the same shall be signed by and shall contain the name and address of the wholesaler, manufacturer, jobber or dealer or other party residing in the United States making the sale of the article or articles covered by it to the dealer and shall be to the effect that such article or articles are not adulterated or misbranded within the meaning of the law.

#### SEALED SAMPLES

Samples which are required to be sealed as provided in Section 188 of Chapter 94 may, in the case of samples left with the vendor or person from whom they were obtained, be sealed with sealing wax or with an adhesive paper seal or may be wrapped in paper and the paper sealed with wax or with an adhesive paper seal.

The samples which are delivered by the collector or inspector to the laboratory for analysis may be sealed with an adhesive paper seal or may be sealed with wax.

#### USE OF COLOR, PRESERVATIVES, ETC.

If the presence of color is not in violation of the law, harmless colors may be used provided that if such colors are of a class subject to certification by the United States Secretary of Agriculture, only certified colors may be used.

Unless otherwise provided by statute articles of food containing minute quantities of sulphur dioxide may be sold provided that the presence of such sulphur dioxide is plainly stated upon the outside of each package sold.

Foods containing compounds of boron, salicylic acid and its compounds, formaldehyde, or saccharin, will be deemed to be adulterated except in the case of foods containing saccharin if such foods have been prepared with saccharin under the direction of a physician for the exclusive use of persons suffering from disease.

Benzoic acid or sodium benzoate may be added to food provided that each container or package of such food is plainly labeled to show the presence and amount of such benzoic acid or benzoate of soda.

#### STANDARDS AND DEFINITIONS

##### *Prepared Meats and Meat Food Products*

Hamburg steak, "hamburger steak," shall mean comminuted fresh beef, with or without the addition of suet or of seasoning.

Meat loaf shall mean the product consisting of a mixture of comminuted meat with spice or with cereals, with or without milk or eggs, pressed into the form of a loaf and cooked.

##### *Eggs and Egg Products*

Dried eggs shall contain not more than 7% of moisture.

Egg yolk shall contain not more than 12% by weight of adhering white.

Dried egg yolk shall contain not more than 5% of moisture.

Evaporated milk shall contain not less than 7.8% of milk fat.

Sweetened condensed milk shall contain not less than 8% of milk fat.

Dried milk shall contain not less than 26% of milk fat and not more than 5% of moisture.

Malted milk shall contain not less than 7.5% of butter fat and not more than 3.5% of moisture.

Evaporated skimmed milk shall contain not less than 20% of milk solids.

Sweetened condensed skimmed milk shall contain not less than 24% of milk solids.

Buttermilk shall mean the product that remains when fat is removed from milk or cream, sweet or sour, in the process of churning and shall contain not less than 8.5% of milk solids not fat.

Cultured buttermilk shall mean the product obtained by souring pasteurized skimmed or partially

skimmed milk by means of a suitable culture of lactic bacteria. It shall contain not less than 8.5% of milk solids not fat.

Cheddar cheese, American cheese, Pineapple cheese, Limburger cheese, Brick cheese, Neufchatel cheese, shall contain in the water-free substance, not less than 50% of milk fat.

Gouda cheese, Swiss cheese, Camembert cheese, shall contain in the water-free substance, not less than 45% of milk fat.

Cottage cheese shall mean the unripened cheese made from separated curd obtained by the action of lactic fermentation or rennet or a combination of the two on skimmed milk with or without the addition of buttermilk. The drained curd may be enriched with cream and may be salted or otherwise seasoned.

Gluten flour shall mean a product made from wheat flour by the removal of a part of the starch. It shall contain not more than 10% of moisture and calculated on the water-free basis, not less than 7.1% nitrogen and not more than 44 % of starch.

Ground gluten shall mean a product made from wheat flour by the removal of starch. It shall contain not more than 10% of moisture and calculated on the water-free basis, not less than 14.2% of nitrogen and not more than 5.5% of starch.

Bread shall contain, one hour or more after baking, not more than 38% of moisture.

Raisin bread shall contain not less than three ounces of raisins to the pound.

Macaroni shall contain not more than 13% of moisture.

Noodles, egg noodles, shall contain not more than 13% moisture and the egg solids content upon the moisture-free basis shall be not less than 5.5%.

Plain noodles shall contain not more than 13% moisture.

Preserve, fruit preserve, jam, fruit jam, shall be prepared by the use of not less than 45 pounds of fruit to each 55 pounds of sugar or of sugar and dextrose.

Glucose fruit preserve, corn syrup fruit preserve, glucose fruit jam, corn syrup fruit jam, shall be prepared by the use of not less than 45 pounds of fruit to each 55 pounds of glucose or corn syrup.

Flavoring extracts shall be deemed to be solutions in ethyl alcohol of proper strength of the sapid and

odorous principles derived from an aromatic plant or parts of the plant, with or without its coloring matter, conforming in name to the plant used in its preparation.

Almond extract shall contain not less than 1% by volume of oil of bitter almonds.

Cinnamon extract shall contain not less than 2% by volume of oil of cinnamon.

Clove extract shall contain not less than 2% by volume of oil of cloves.

Ginger extract shall contain in each 100 cubic centimeters, the alcohol-soluble matters from not less than 20 grams of ginger.

Lemon extract shall contain not less than 5% by volume of oil of lemon.

Terpeneless extract of lemon shall contain not less than 0.2% by weight of citral derived from oil of lemon.

Orange extract shall contain not less than 5% by volume of oil of orange.

Peppermint extract shall contain not less than 3% by volume of oil of peppermint.

Spearmint extract shall contain not less than 3% by volume of oil of spearmint.

Vanilla extract shall contain in 100 cubic centimeters the soluble matters from not less than 10 grams of the vanilla bean.

Wintergreen extract shall contain not less than 3% by volume of oil of wintergreen.

Mayonnaise shall mean the semi-solid emulsion of edible vegetable oil, egg yolk, or whole egg, a vinegar, or lemon juice, with one or more of the following: Salt, other seasoning commonly used in its preparation, sugar, or dextrose. The finished product shall contain not less than 50% of edible oil.

Milk chocolate, sweet milk chocolate, shall contain not less than 12% of whole milk solids.

Sweet cocoa, sweetened cocoa, shall contain not more than 65% of total sugars.

Sweet milk cocoa shall contain not less than 12% of whole milk solids.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on Feb. 9, 1937.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE LICENSING OF BOARDING HOMES FOR THE AGED.

The Department of Public Health, acting under the authority of Section 71, 72, 72A, 73, Chapter III of the General Laws, as amended by Chapter 618 of the Acts of 1948, and every other act thereto enabling, hereby prescribes and established the following rules and regulations.

1. The Department of Public Health shall issue for a term of two years, a license, subject to revocation by it for cause, to any person whom it deems suitable and responsible to establish or maintain a boarding home for the aged which meets the requirements of the department established in accordance with its rules and regulations.

2. In accordance with the authority granted by this Act the Department of Public Health herewith adopts the following rules and regulations for the conduct and supervision of boarding homes for the aged.

#### B. DEFINITIONS.

1. A boarding home for the aged is defined as any institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing care incident to old age to three or more persons over sixty years of age who are not acutely ill or in need of medical or nursing care.

2. The term "department" as used in these regulations shall mean the Massachusetts Department of Public Health.

3. The term "district health officer" shall mean the medical representative of the department in the district to which he has been assigned and in which your home is located.

4. The term "department of public safety" shall mean the Massachusetts Department of Public Safety.

5. The term "local board of health" shall mean the board of health or department of health of the city or town in which the boarding home is located.

6. The terms "local fire chief", "local wire inspector", "local zoning authorities", shall mean the individual so designated in the city or town in which the boarding home is located.

7. All adjectives and adverbs such as adequate, approved, attractively, clean, good, qualified, reasonable, reliable, reputable, sanitary, satisfactory, sufficiently, suitable, well, used in these rules and regulations to qualify a person, equipment or building shall be as determined by the department.

#### C. ISSUANCE OF LICENSE.

1. Application for a license to establish or maintain a boarding home for the aged shall be made in writing and submitted to the district health office upon the forms secured from the district health officer.

2. These forms include

- a. Application for license.
- b. Local board of health certificate of approval.

3. A certificate of approval or an Acknowledgment issued by an inspector in the Division of Inspection in the Department of Public Safety shall accompany the application.

4. A check or money order for ten dollars payable to the Commonwealth of Massachusetts shall accompany the application.

5. Written approval of local zoning authorities shall be obtained before application for license is submitted.

6. A written report of inspection from the local wire inspector shall accompany the application. In towns having no local inspector the district health office will arrange with the state wire investigator for an inspection.

7. A written inspection report of the premises to be occupied shall be obtained from the local fire chief or his representative before application for license is submitted.

8. The applicant shall be of reputable character and shall provide references satisfactory to the department.

9. Every boarding home for the aged shall be designated by a permanent and distinctive name which shall appear on the application for license, and which shall not be changed without first notifying the department.

10. Each license shall specify the maximum allowable number of beds in the home, which number shall not be exceeded. Occupancy of rooms above the second floor shall be restricted to employees and members of the immediate family of the licensee. The entire building shall be open for inspection without notice by authorized agents of the department and local boards of health.

11. The license and Inspection Certificate or an Acknowledgment from the Department of Public Safety shall be posted conspicuously on the premises.



12. Each license issued shall be returned immediately by registered mail to the department on its expiration or revocation and shall not be transferable. The department shall be notified of any change in ownership or location of the home, and a new application must be submitted.

13. Any additions or alterations to the premises can be made only if approved by the department.

#### D. REVOCATION OF LICENSE.

1. A license to operate a boarding home for the aged may be revoked by the department in accordance with the General Laws, Chapter 111, Sections 71 to 73 inclusive as amended by Chapter 618 of the Acts of 1948 for any of the following reasons:

a. Violation of the provisions of the licensing act or of the standards, rules or regulations of the department adopted thereunder.

b. Permitting, aiding or abetting the commission of any illegal act in such home.

### II. GENERAL REGULATIONS.

#### A. FIRE PROTECTION.

1. Adequate provisions for fire protection and egress shall be provided as approved by the Department of Public Safety.

2. All exits shall be clearly identified by exit signs and lighting facilities shall be available.

3. Homes shall be open to inspection without notice by the local fire chief or his authorized representatives, and employees shall be instructed by them as to their duties in case of fire.

#### B. SANITATION.

##### 1. Water Supply.

a. The water supply shall be adequate and of safe, sanitary quality and obtained from a source approved by the department.

##### 2. Sewage Disposal.

a. All sewage shall be discharged into a municipal sewerage system where such is available; otherwise, the sewage shall be collected, treated, and disposed of by means of an independent sewerage system approved by the department.

##### 3. Toilet and Handwashing Facilities.

a. Adequate toilet and handwashing facilities shall be provided in a reasonable ratio according to the number of boarders and personnel of the boarding home.

##### 4. Refuse Disposal.

a. All refuse shall be stored in a sanitary manner and subsequently removed at frequent intervals.

##### 5. Garbage Disposal.

a. Suitable, sanitary facilities shall be provided for the collection, storage and disposal of garbage. Garbage shall be stored in water-tight containers with tight-fitting covers.

##### 6. Screens.

a. Outside doors, windows and openings shall be protected against flies and other insects by the seasonal use of screens.

##### 7. Heating.

a. Adequate heating shall be provided in all rooms used by boarders to maintain a minimum temperature of 70° to 74° F. in cold weather.

b. Heating shall be in conformity with the rules and regulations as outlined by the Department of Public Safety under Chapter 148 as amended.

c. The use of portable oil stoves or open wood stoves is prohibited.

##### 8. Lighting and Ventilation.

a. Each room occupied by boarders shall have an outside exposure with provision for unobstructed natural light, and adequate ventilation.

b. Adequate artificial lighting shall be available in all rooms, stairways and hallways of the building. Night lights shall be provided in all hallways and bathrooms.

c. The use of oil and gasoline lamps is prohibited except in instances where a permit for same has been issued by the local fire chief.

##### 9. Laundry.

a. Adequate provision shall be made for the storage of soiled linen and there shall be satisfactory arrangement for the laundering of the same.

#### C. FOOD SANITATION.

1. There shall be adequate facilities for the proper storage, preparation and serving of food for boarders and personnel.

##### 2. Refrigeration.

a. All perishable food, including milk, shall be adequately refrigerated.

b. There shall be a reliable thermometer in each refrigerator and storeroom used for perishable foods.

##### 3. Cleansing of Dishes.

a. All utensils used for eating, drinking and in preparation or serving of food and drink shall be washed after each use in a manner approved by the department.

##### 4. Hand-washing facilities.

There shall be adequate hand-washing facilities with soap, running hot and cold water and an adequate supply of individual sanitary towels in all kitchens and in washrooms used by individuals preparing or serving food.

#### D. DIET.

1. Meals for boarders shall be of adequate quantity and quality, well-balanced, and sufficiently varied.

2. Food shall be served attractively and every effort shall be made to conserve heat in food usually served hot and to prevent contamination.



3. Tray service shall be provided for boarders if indicated.

4. Provisions shall be made for the preparation of special diets when prescribed.

#### E. BOARDERS' ACCOMMODATIONS AND EQUIPMENT.

1. The home shall be kept in good repair, clean and sanitary, and in a manner as to prevent the entrance and harborage of rats, other rodents and vermin.

2. Each boarder's room shall be of sufficient size to allow not less than sixty square feet of floor space per bed, with at least three feet between beds. Boarders' beds shall be spaced to avoid drafts and other discomforts.

3. A well lighted and ventilated sitting or living room shall be provided for boarders.

4. Each boarder shall have a bed, a bedside table, a comfortable chair and a bureau or other adequate provision for storing clothing.

5. Personal belongings and valuables shall be listed and checked, and a dated signed receipt given when the boarder is admitted. A copy of this list and receipt shall be kept on file.

6. Homes for the aged shall not accept persons in need of nursing care at the time of admission, but should provide a suitable room which can be used for a boarder who becomes temporarily ill or incapacitated while in the home. Provision shall be made for the immediate removal of a body from a multiple bed room or ward in the event of death.

7. There shall be adequate equipment for minimum personal care incident to old age.

8. Every boarder should be supplied with a mouth wash cup or drinking glass. A bedpan, urinal, etc., should be supplied for each boarder when confined to bed.

9. Individual sputum receptacles with disposal containers shall be available for use as needed.

10. An adequate supply of clean bedding, clean bed linen, clean towels and other supplies shall be available.

11. Each boarder shall be provided with a bell to enable him to summons assistance when necessary.

12. All stairways used by boarders shall be well lighted and equipped with handrails on both sides.

#### F. SUPERVISION OF BOARDERS.

##### 1. Personnel.

a. There shall be one person physically and temperamentally qualified who is definitely responsible for the supervision of the boarders. Such person shall be on the premises at all times unless a satisfactory arrangement is made for coverage during his or her absence.

b. According to the size of the boarding home additional personnel shall be provided to insure

adequate care of the boarders. Adequacy of personnel to be determined by the department representatives.

##### 2. Medical.

a. A certificate of the state of health, signed by a physician registered to practice in Massachusetts shall be issued for each boarder at time of admission. Exception: Boarders who are members of the body known as the Church of Christ, Scientist.

b. Each boarder or his guardian or the agency responsible for his care shall on admission designate the name and address of a physician registered to practice in Massachusetts to be called at the onset of any illness or incapacitation. Exception: Boarders who are members of the body known as the Church of Christ, Scientist.

c. The licensee shall arrange temporary nursing service for boarders with short illnesses such as cold or grippe. Visiting nurses may be used for such illnesses on the request of a physician.

d. Only medication that is provided by a set of written standing orders approved by the department shall be given except upon the written order of a physician registered to practice in Massachusetts.

e. All poisonous substances, drugs and medicines shall be plainly labeled and kept in a locked, well lighted closet or cabinet accessible only to authorized personnel.

##### 3. Personal Care.

a. Boarders may require only one or several of the following personal services, but the licensee shall be able and willing to give or arrange for any one of them to persons unable to care for themselves.

1. Bathing and personal cleanliness excluding shampoo, care of feet and nails.
2. Shaving and occasionally haircuts.
3. Personal laundry including repairing or mending of clothes.
4. Supervision of boarders to ensure that proper clothing is worn in accordance with the weather.
5. Supervision of boarders' recreational and routine activities on or off the premises.
6. Tray service if unable to go to the dining room.

b. Boarders receiving types of assistance such as Old Age Assistance or Aid to the Blind will usually have an allowance for personal needs and clothing included in their assistance checks. Whenever such check is tendered in payment for board, the allowance for personal needs and clothing shall be returned to the boarder.

#### G. PERSONS NOT ACCEPTABLE FOR ADMISSION.

1. No boarding home for the aged shall admit or care for persons who regularly require the services of a physician, nurse, or attendant.

2. No boarding home for the aged shall admit or care for persons who are suffering from insanity or abnormal mental conditions, or for persons who are addicted to the use of narcotics or stimulants so as to have lost the power of self-control.

**EXCEPTION:** A person who has been released under General Laws, Chapter 123, Section 88, by the superintendent of a State institution under the control of the Department of Mental Health and who has been approved for Old Age Assistance by the local Board of Public Welfare and the State Department of Public Welfare may be admitted. In addition, recovered, self-sustaining patients under the supervision of a psychiatric social worker of a mental hospital for at least one year after release and until absolute discharge may be admitted. Only one recovered mental patient whether self-sustaining or a public dependent shall be allowed in a home at one time.

3. No licensee shall arrange the transfer of a boarder from one licensed boarding home for the aged to another without the permission of a boarder, a responsible relative or of the responsible public or private agency.

#### H. RECORDS.

1. All records shall be permanent, either type-written or legibly written with pen and ink and signed.

2. The following data shall be recorded for each boarder in a bound Boarders' Register Book.

a. Name of Boarder, Date of Admission, Admittance Address.

b. Age, Sex, Color, Race, Marital Status M S D W, Religion.

c. Name, address and telephone number of person or agency responsible for boarder.

d. Name, address and telephone number of physician to be called when need arises. Exception: If the boarder be a member of the body known as the Church of Christ, Scientist.

e. Date of discharge, reason for discharge and address to which discharged.

3. A folder shall be maintained for each boarder in which are kept: The physician's certificate of the state of health of each boarder on admission,\* and any social service referral forms that may accompany boarder. In the event the boarder develops a minor illness and is retained in the home, a record shall be kept in this folder of all physician's visits and statement as to boarder's physical condition, and orders which must be dated and signed by the physician and the individual who administers the same. A brief nursing record shall be kept on all acute illnesses of the boarders.

4. A bound physicians' order book shall be available for use by the physician attending any boarder for a minor illness. This must show the name of the patient, date, medication, diet or treatment prescribed, date of each physician's visit and the physician's signature.

5. Special reports—The occurrence of any poisoning, or epidemic diseases, including food poisoning, shall be reported immediately by telephone to the district health officer and the local board of health. The home shall furnish any other pertinent information relative to such occurrences as the department may require.

6. All major injuries to boarders shall be attended by the boarder's physician and reported by the physician to the district health officer.

7. Annual report.—This form, which shall be furnished by the department, is to be filled out for the fiscal year July 1 through June 30 and returned to the district health officer in duplicate not later than July 15 of each year.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on Nov. 3, 1948.

\* See F. Supervision of Boarders 2a. Page 271.



## THE COMMONWEALTH OF MASSACHUSETTS

## Department of Public Health

## RECOMMENDED STANDING ORDERS

## RELATIVE TO CONVALESCENT AND NURSING HOMES AND BOARDING HOMES FOR THE AGED

Prepared in accordance with Part II, Section F2a of Rules and Regulations Relative to the Licensing of Convalescent and Nursing Homes and Part II, Section F2d of Rules and Regulations relative to the Licensing of Boarding Homes for the Aged.

The orders of the patient's physician supersede all standing orders. No care, except as stated in these standing orders, is given without a physician's orders.

Standing orders are to be used only under the following conditions:

- a. When orders have not been left by the boarder's or patient's physician
- b. When the licensee has been unable to communicate with the physician
- c. In an emergency.

## Common Cold

Take temperature. Advise rest and plenty of fluids. Urge use of disposable paper handkerchiefs. Hot "Karo" gargles (1tb. to a glass of hot water) or hot salt gargle (1tb. to a quart of water) if throat is sore. Advise medical attention if cold persists.

## Sore Throat

Hot "Karo" gargle (1tb. to a glass of hot water) or hot salt water gargle (1tsp. to a quart of water) and plenty of fluids. In addition, the following medication may be given:

1. Elixir terpin hydrate (1tsp) To be repeated not more often than once in every three or four hours

or

2. Syrup of cocilana (1 tsp.) to be repeated not more often than once in every three or four hours.

Call physician if symptoms persist.

## Headache

Take temperature. Advise rest, quiet, and increased fluids. Cold compresses to head for comfort. Aspirin tablets (two may be given at the original dose). If symptoms persist, call physician.

## Suspected Communicable Disease

Isolate patient and put to bed. Take temperature. Force fluids. Call physician. All dishes, drinking glasses, medicine glasses, and utensils should be washed separately and boiled.

## Pressure Sores

Cleanse with soap and water. Rinse well with clear water and dry thoroughly. Apply any of the acceptable dry powders such as cornstarch, zinc stearate or Fuller's earth. Notify physician. Relieve body pressure from area by frequent change of position. Massage around area of sore to stimulate circulation. Pressure sores can be prevented by changing patient's position frequently, good back care, frequent alcohol rubs and placing sponge rubber ring under the patient's buttocks.

## Post Operative Dressings

If loosened or saturated, reinforce by applying dry sterile dressings. Do not change dressing except under physician's orders.

## Pediculosis Capitis (Head Lice)

Shampoo head with Cuprex or Derbac Soap as directed on the wrapper and remove nits with a fine tooth comb.

## Constipation

If no abdominal pain exists, a mild soap suds enema may be given. If symptoms persist, notify physician.

## RULES AND REGULATIONS

In chronic constipation, the following medication may be given:

Cascara sagrada (one 5 grain tablet)

or

Mineral oil (1 tb.)

or

Milk of magnesia (2 tb. diluted in cold water)

Diarrhea

Notify physician.

Nausea and Vomiting

Notify physician.

Indigestion

Notify physician.

Fainting

If possible, prevent by having patient lower head between knees. If loss of consciousness occurs, put patient in lying-down position with head lower than rest of body. Loosen clothing. Open windows. Give aromatic spirits of ammonia by inhalation. When consciousness

returns, one teaspoon of aromatic spirits of ammonia diluted with a quarter of a glass of cold water.

Nosebleed

If patient is sitting up, tilt head slightly back. If lying down, head should be slightly raised. Loosen collar or tight bands around neck. Apply cold, wet compresses over the nose. Have patient avoid blowing nose. Patient should be quiet. If nosebleed is persistent, call physician.

Splinters

Cleanse area with soap and water. Remove if slight, using tweezers which have been boiled. If deeply imbedded, call physician.

Minor Cuts

For minor injuries (cuts, scratches, etc.) cleanse area with soap and water and if necessary apply band-aid or dry, sterile dressing.

Approved and adopted by the Department of Public Health at the meeting of its Council of March 14, 1950.

Filing Suggestion: Insert immediately after page 272 in the Manual of Laws.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE LICENSING OF CONVALESCENT AND BOARDING HOMES.

The Department of Public Health, acting under the authority of Sections 71, 72, 72A, 73, Chapter 111 of the General Laws, as amended by Chapter 618 of the Acts of 1948, and every other act thereto enabling hereby prescribes and establishes the following rules and regulations.

1. The Department of Public Health shall issue for a term of two years, a license, subject to revocation by it for cause, to any person whom it deems suitable and responsible to establish or maintain a convalescent or nursing home which meets the requirements of the department established in accordance with its rules and regulations.

2. Convalescent or nursing homes conducted in accordance with the practice and principle of the body known as the Church of Christ, Scientist, shall be licensed and subject to the provisions for local board of health approval, public safety approval and license fee. However, the only inspection to be made in such homes by the Department of Public Health shall pertain to sanitation.

3. Institutions not included in the provisions of this Act are nursing institutions licensed by the Department of Mental Health for mental cases, and "Family Care Homes" supervised by the Department of Mental Health.

4. In accordance with the authority granted by Chapter 618 of the Acts of 1948 the Department of Public Health herewith adopts the following rules and regulations for the conduct and supervision of convalescent and nursing homes.

#### B. DEFINITIONS.

1. A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three or more persons admitted thereto for the purpose of nursing or convalescent care.

2. A licensed attendant is one licensed by the Massachusetts State Board of Registration in Nursing to practice as a licensed attendant.

3. A graduate nurse is one who has graduated from a school of nursing which is now approved or was approved at the time the nurse was graduated.

4. A registered nurse is one who has graduated from an approved school of nursing and who has been licensed to practice as a registered nurse by the Massachusetts State Board of Registration in Nursing.

5. The term "department" as used in these regulations shall mean the Massachusetts Department of Public Health.

6. The term "district health officer" shall mean the medical representative of the department in the district to which he has been assigned and in which your home may be located.

7. The term "department of public safety" shall mean the Massachusetts Department of Public Safety.

8. The term "local board of health" shall mean the board of health or department of health of the city or town in which the institution is located.

9. The terms "local fire chief", "local wire inspector", "local zoning authorities", shall mean the individual so designated in the city or town in which the convalescent or nursing home is located.

10. All adjectives and adverbs such as adequate, approved, attractively, clean, good, qualified, reasonable, reliable, reputable, sanitary, satisfactory, sufficiently, suitable, or well, used in these rules and regulations to qualify a person, equipment or building shall be as determined by the department.

#### C. ISSUANCE OF LICENSE.

1. Application for a license to establish or maintain a home shall be made in writing and submitted to the district health office upon forms secured from the district health officer.

2. These forms include:

a. Application for license.

b. Local board of health certificate of approval.

3. A certificate of approval or an Acknowledgment issued by an inspector in the Division of Inspection in the Department of Public Safety should accompany the application. When such an inspector issues to an applicant an Acknowledgment, the department shall issue a provisional approval for temporary operation for the same period of time as stated in the Acknowledgment provided all other requirements for the issuance of a license have been met.

4. A check or money order for ten dollars payable to the Commonwealth of Massachusetts shall accompany the application.

5. Written local zoning authority approval shall be obtained before submitting application for license.



6. A written report of inspection from the local wire inspector shall accompany application. In towns having no local inspector, the district health officer will arrange with the state wire investigator for an inspection.

7. A written inspection report of the premises shall be obtained from the local fire chief or his representative before application for license is submitted.

8. The applicant shall be of reputable character and provide references satisfactory to the department.

9. Every convalescent or nursing home shall be designated by a permanent and distinctive name which shall appear on the application for license, and which shall not be changed without first notifying the department.

10. Each license shall specify the maximum allowable number of beds in the home which number shall not be exceeded. Occupancy of rooms above the second floor shall be restricted to employees and members of the immediate family of the licensee. The entire building shall be open for inspection without notice by authorized agents of the department and local boards of health.

11. The license and Inspection Certificate or Acknowledgment from the Department of Public Safety shall be posted conspicuously on the premises.

12. Each license issued shall be returned immediately by registered mail to the department on its expiration or revocation and shall not be transferable. The department shall be notified of any change in ownership, or location of the home, and a new application must be submitted.

13. Any additions or alterations to the premises can be made only if approved by the department.

#### D. REVOCATION OF LICENSE.

1. A license to operate a convalescent or nursing home may be revoked by the department in accordance with General Laws Chapter 111, Sections 71 to 73, inclusive, as amended by Chapter 618 of the Acts of 1948 for any of the following reasons:

a. Violations of the provisions of the licensing act or of the standards, rules or regulations of the department adopted thereunder.

b. Permitting, aiding or abetting the commission of any illegal act in such home.

## II. GENERAL REGULATIONS.

### A. FIRE PROTECTION.

1. Adequate provisions for fire protection and egress shall be provided as approved by the Department of Public Safety.

2. All exits shall be clearly identified by exit signs and lighting facilities shall be available.

3. Homes shall be open to inspection without notice by the local fire chief or his authorized repre-

sentatives and employees shall be instructed by them as to their duties in case of fire.

### B. SANITATION.

#### 1. Water Supply.

a. The water supply shall be adequate and of safe, sanitary quality and obtained from a source approved by the department.

#### 2. Sewage Disposal.

a. All sewage shall be discharged into municipal sewerage system where such is available; otherwise, the sewage shall be collected, treated, and disposed of by means of an independent sewerage system approved by the department.

#### 3. Toilet and Handwashing Facilities.

a. Adequate toilet and handwashing facilities shall be provided in a reasonable ratio according to the number of patients and personnel in the home.

#### 4. Waste Disposal.

a. All accumulated soiled dressings and other waste shall be stored in sanitary containers and subsequently disposed of in a manner approved by the department.

#### 5. Garbage Disposal.

a. Suitable sanitary facilities shall be provided for the collection, storage and disposal of garbage. Garbage shall be stored in water-tight containers with tight-fitting covers.

#### 6. Screens.

a. Outside doors, windows and openings shall be protected against flies and other insects by the seasonal use of screens.

#### 7. Heating.

a. Adequate heating shall be provided in all rooms used by patients to maintain a minimum temperature of 70° to 74° in cold weather.

b. Heating shall be in conformity with the rules and regulations as outlined by the Department of Public Safety under Chapter 148 as amended. The use of portable oil stoves or open wood stoves is prohibited.

#### 8. Lighting and Ventilation.

a. Each patient's room shall have an outside exposure with provision for unobstructed natural light, and adequate ventilation.

b. Adequate artificial lighting shall be available in all rooms, stairways, and hallways of the building. Night lights shall be provided in all hallways, stairways, and bathrooms.

c. The use of oil and gasoline lamps is prohibited except in instances where a permit for same has been issued by the local fire chief.

d. Electric wiring in all homes shall be inspected by the local wire inspector and reported in writing on forms provided by the department. When there is no local wire inspector the district health officer shall request such inspection by a state wire investigator.



**9. Laundry.**

a. Adequate provision shall be made for the storage of soiled linen.

b. All homes shall provide satisfactory facilities on the premises for washing of soiled linen or make provisions for the same with a commercial laundry.

**C. FOOD SANITATION.**

1. There shall be adequate facilities for the proper storage, preparation and serving of food for both patients and personnel.

**2. Refrigeration.**

a. All perishable food, including milk, shall be adequately refrigerated.

b. There shall be a reliable thermometer in each refrigerator and storeroom used for perishable foods.

**3. Cleansing of Dishes.**

a. All utensils used for eating, drinking, and in the preparation or serving of food and drink shall be washed after each use in a manner approved by the department.

**4. Handwashing Facilities for Food Handlers.**

a. There shall be adequate handwashing facilities with soap, running hot and cold water and an adequate supply of individual sanitary towels in all kitchens, including diet kitchens, and in washrooms used by food handlers.

**D. DIET.**

1. Meals for patients shall be of adequate quantity and quality, well-balanced and sufficiently varied.

2. Food shall be served attractively and every effort shall be made to conserve heat in foods usually served hot and to prevent contamination.

3. Provisions shall be made for the preparation of special diets when prescribed.

4. Tray service shall be provided.

**E. PATIENTS' ACCOMMODATIONS AND EQUIPMENT.**

1. The home shall be kept in good repair, clean and sanitary at all times, and in such a manner as to prevent the entrance and harborage of rats, other rodents and vermin.

2. Each patient's room shall be of sufficient size to allow not less than sixty square feet of floor space per bed, with at least three feet between beds. Patients' beds shall be spaced to avoid drafts and other discomforts.

3. A well lighted and ventilated sitting or living room shall be provided for ambulatory patients.

4. Beds of household height or hospital beds shall be used but all homes shall provide an adequate number of bed sideboards.

5. Each patient shall have a bedside table, a comfortable chair, a bedside light and a bureau or other adequate provision for storing clothing.

6. Personal belongings and valuables shall be listed and checked and a dated, signed receipt given when the patient is admitted. A copy of this list and receipt shall be kept on file.

7. Each home in which patients do not have private rooms shall have a suitable room which can be used for serious illness or terminal cases. Provisions shall be made for the immediate removal of a body from a multiple bedroom or ward in the event of death.

8. Every patient should be supplied with a mouth wash cup or drinking glass. A bedpan, urinal, etc., should be supplied for each bed patient.

9. All stairways used by ambulatory patients shall be well lighted and provided with handrails on both sides.

10. An adequate supply of clean bedding, bed linen, towels and other supplies shall be available.

11. Means of signalling for assistance shall be provided at the bedside of each patient. Hand bells are acceptable.

12. Bed screens or curtains shall be available for all multibed rooms to insure patient privacy.

**F. MEDICAL AND NURSING CARE.**

**1. Medical Supervision.**

a. All persons admitted shall have a written record containing the diagnosis of the illness and the treatment to be carried out. This record shall be signed by a physician registered to practice medicine in Massachusetts. Each patient or his guardian or the agency responsible for his care shall on admission designate the name and address of a physician registered to practice medicine in Massachusetts to be responsible for his medical supervision including periodic examinations.

**2. Medical Procedures.**

a. Only medications that are provided by a set of written standing orders, approved by the department, shall be given except on the written order of a physician registered to practice medicine in Massachusetts.

b. Any person other than a registered nurse who uses a hypodermic syringe must have a permit from a physician registered to practice medicine in Massachusetts.

**3. Medicines.**

a. All medicines, poisons, stimulants and other drugs shall be plainly labeled and stored in a locked, well-lighted medicine cabinet or closet and accessible only to responsible personnel.

b. There shall be a separate locked compartment for the storage of narcotics prescribed by physicians for a specific patient.

c. All narcotic drugs which are left over from specific prescriptions must be sent by prepaid Railway Express or delivered in person to the Federal Bureau of Narcotics, Room 1120, Federal Building, Boston.



d. Poisons and medications for external use only shall be kept in a separate compartment of the locked medicine cabinet or closet.

#### 4. Nursing Personnel.

a. A graduate or registered nurse, or licensed attendant shall be responsible for the supervision of the nursing service in the homes day and night.

b. There shall be adequate nursing supervision during vacation or other relief periods.

c. There shall be sufficient personnel to provide adequate care for patients and to maintain satisfactory supplementary services needed by the home. Adequacy of personnel shall be as determined by department representatives.

d. The names and qualifications of all professional employees shall be on file for inspection by the department.

#### 5. Nursing Facilities and Equipment.

a. There shall be adequate equipment for nursing care according to the number and type of patients accepted by the homes.

b. Individual bedpans or urinals, and wash basins shall be provided for each bed patient. This equipment shall be stored so that it cannot be interchanged between patients.

c. Adequate facilities shall be available for the disinfection of individual equipment upon discharge of the patient.

d. There shall be an adequate supply of individual rectal and mouth thermometers, which shall be disinfected before each use.

e. Individual sputum receptacles with disposable containers shall be available for use as needed.

#### G. ALLOWANCES FOR PERSONAL NEEDS.

1. Patients receiving types of assistance such as Old Age Assistance or Aid to the Blind will usually have an allowance for personal needs and clothing including in their assistance checks. Whenever such a check is tendered in payment for board, the allowances for personal needs and clothing shall be returned to the patient.

#### H. PATIENTS NOT ACCEPTABLE FOR ADMISSION.

1. No convalescent or nursing home shall admit or care for persons who are suffering from insanity or abnormal mental conditions, or for persons who are addicted to the use of narcotics or stimulants so as to have lost the power of self-control. EXCEPTION: A person who has been released under General Laws, Chapter 123, Section 88, by the superintendent of a State institution under the control of the Department of Mental Health and who has been approved for Old Age Assistance by the local Board of Public Welfare and the State Department of Public Welfare may be admitted. In addition, recovered, self-sustaining patients under the supervision of a psychiatric social worker of a mental hospital for at least one year after release and until absolute discharge may be admitted. Only one recovered mental patient, whether

self-sustaining or a public dependent, shall be allowed in a home at one time.

2. No convalescent or nursing home shall admit a person suffering from a contagious disease or a person requiring prenatal or maternity care.

3. Admission to convalescent or nursing homes of children under 16 years of age shall be subject to the approval of the department.

4. No licensee shall arrange a transfer of a patient from one licensed convalescent or nursing home to another without the permission of the patient or a responsible relative or of the responsible public or private agency.

#### I. RECORDS.

1. All records shall be permanent, either type-written or legibly written with pen and ink and signed.

2. Complete and accurate records of each patient shall be kept from the time of admission to the time of discharge.

3. Each patient's record shall be a chronological record and shall be entered on an approved card file system or kept in an individual folder and filed in a manner approved by the department for not less than five years following the patient's discharge. Such records shall include:

##### a. Identification Data.

Name of patient, date of admission, admittance, address.

Age, Sex, Color, Race, Marital Status (M. S. D. W.), Religion, Diagnosis.

Name and address of referral physician.

Name and address of physician to be called when need arises.

Name, address and telephone number of person or agency responsible for patient.

##### b. Nursing Record.

Date, time, dosage and method of administration of all medications and signature of the nurse or attendant who administered the same.

Date and time of all treatments and dressings.

Record of all pertinent factors pertaining to patient's condition.

Record of all accidents occurring while patient is in the home.

##### c. Medical Record.

Date of each physician's visit, pertinent notes regarding patient's physical condition and physician's signature.

Medication, diet and treatment prescribed, date and signature of physician to be entered in a bound physician's order book and on patient's record.

Recommendations for discharge and statement as to patient's physical condition by a physician licensed to practice medicine in Massachusetts.



**d. Discharge Data.**

Date of discharge.

Condition on discharge.

Reason for discharge.

Address to which discharged.

4. There shall be a narcotic and sedative book which shall be a bound notebook in which is recorded the name of patient, the date, time, dosage, and method of administration of all narcotics and sedatives, the name of the physician who prescribed the medication and the name of the nurse or attendant who administered it. In addition, there shall be a recorded, signed narcotic and sedative count every morning and every night.

5. All major injuries to patients shall be attended by the patient's physician and reported by the physician to the district health officer.

6. Special reports—The occurrence of epidemic diseases and poisoning, including food poisoning, shall be reported immediately by telephone to the district health officer and the local board of health. The home shall furnish any other pertinent information related to such occurrences as the department may require.

7. Annual report—This form, which shall be furnished by the department is to be filled out for the calendar year July 1, through June 30, and returned to the district health officer in duplicate not later than July 15 of each year.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 11/3/48.

## The Commonwealth of Massachusetts

### DEPARTMENT OF PUBLIC HEALTH

## RULES AND REGULATIONS

### RELATIVE TO DISPENSARY LICENSE.

The Department of Public Health, acting under the authority of Chapter 131 of the Acts of 1918, and every other act thereto enabling, hereby prescribes and establishes the following.

1. Evidence must be submitted that there is a need for a dispensary and that it will be for the benefit of the public, taking into consideration the location, the number of people served, the type of community, and other pertinent considerations.

2. Evidence must be submitted that the dispensary meets the need, and that the size of the professional staff, the equipment, and the hours of operation are adequate to take care of the demands placed upon it. Only dispensaries having at least the following minimum requirements may receive a license.

- a. A licensed physician shall be in attendance each clinic session where medical or surgical service is given and must see each case.
- b. A registered nurse shall be in attendance throughout the clinic period at which medical or surgical service is given.

- c. At least two rooms, one for a waiting room, and one or more for examination and treatment, shall be provided where medical or surgical service is given.
- d. Running water and apparatus for sterilizing instruments by boiling shall be available.
- e. An individual record shall be kept in each case.

3. If the dispensary is partially supported by public contributions, the application should receive the approval of the local boards of health and welfare.

4. Dispensaries supported by taxation, and operated by cities and towns subject to rules and regulations of local boards of health, do not require a license from the Department.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 1/12/19. Amended 5/13/19; 5/10/38.



# The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH

## RULES AND REGULATIONS

### RELATIVE TO LOCAL HEALTH ADMINISTRATION.

General Rules for Police Station Houses, Lock-ups, Houses of Detention, Jails, Houses of Correction, Prisons and Reformatories.

(GENERAL LAWS, CHAPTER 111, SEC. 21)

1. *Care and Use of Bedding.*—Each prisoner shall be supplied with such number of blankets as is necessary to keep him warm. All blankets shall be washed when they become soiled. They shall be aired, and if practicable, sunned daily while in use.

Clean sheets shall be kept on hand at all times. Where sheets are supplied, they shall be changed for each new occupant. When in constant use by the same person, at least one sheet shall be changed each week.

Where mattresses are supplied they shall be renovated or replaced whenever they become grossly soiled.

2. *Cleanliness.*—Quarters shall be kept clean and free from refuse and litter.

3. *Drinking Cups.*—Individual cups shall be provided for each person. The common drinking cup is prohibited. (See Sec. 8, Chap. 111, G.L.)

4. *Dishes Used for Food.*—All dishes and eating utensils used shall be cleansed and effectively subjected to an approved bactericidal process after each usage.

5. *Plumbing.*—All plumbing shall be maintained in good order.

6. *Towels.*—Individual towels shall be provided for each person. The common towel is prohibited. (Sec. 8, Chap. 111, G.L.)

7. *Ventilation and Lighting.*—All cells and rooms used by inmates shall be adequately ventilated and lighted.

8. *A copy of these rules shall be posted in every Police Station House, Lock-up, House of Detention, Jail, House of Correction, Prison and Reformatory.*

Adopted 1910; amended 4/8/30; 6/15/48.

NOTE: All plans for construction must be approved by the Department (Section 22, Chap. 111, G.L.)

June, 1948.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO TUBERCULOSIS.

The Department of Public Health, acting under the authority of Sections 76 and 77 of Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations to

1. Establish minimum requirements for tuberculosis hospitals and sanatoria serving populations of less than 100,000.
2. Establish minimum requirements for tuberculosis hospitals and sanatoria serving populations of 100,000 to 500,000.
3. Establish minimum requirements for tuberculosis hospitals serving populations of over 500,000.

#### STANDARDS FOR TUBERCULOSIS SANATORIA.

Tuberculosis hospitals and sanatoria shall comply with the basic standards for general hospitals, as promulgated by the Department of Public Health under the provisions of Ch. 618 of the Acts of 1948. In addition they shall meet the following requirements to qualify for state subsidy under the provisions of Sec. 76-77, Ch. 111, G. L.:

#### I.

#### Minimum Requirements for Tuberculosis Hospitals And Sanatoria Serving Populations Of Less Than 100,000.

##### A. BED CAPACITY.

At least two beds for each average annual death for the previous five year period from pulmonary tuberculosis shall be available, and at least 30 per cent of this bed capacity shall be single rooms. This ratio of single rooms is considered necessary by the department but institutions having a lower ratio but otherwise meeting the requirements will be accepted, provided any additional construction shall provide single rooms until the minimum of 30 per cent is reached.

There shall be an examining room, an X-ray room and a clinical laboratory.

##### B. MEDICAL SUPERVISION.

**Physician:** A registered physician with special tuberculosis experience acceptable to the State Department of Public Health shall make daily visits. The hours that the physicians spend at the Institu-

tion each day should be approximately in the ratio of 2 hours for every 20 patients. If there are 50 patients or more in the Institution, there should be a resident physician.

##### C. CONSULTATION STAFF.

This staff shall include an internist (preferably one with tuberculosis experience), general surgeons, nose and throat specialist, thoracic surgeon, and bronchoscopist.

##### D. NURSES.

The superintendent of nurses and at least one of her assistants shall be graduate nurses registered, or eligible for registration in Massachusetts. The ratio of total nursing staff (including all grades of nursing attendants) to patients shall be at least 1 to 4 patients.

##### E. DENTIST AND DENTAL CARE.

There shall be sufficient registered dentists on the staff to provide for each patient a thorough dental examination on admission and semi-annually thereafter together with the performance of any therapeutic dental work that may be indicated. It is estimated that this will require a minimum of at least four hours of dental service (exclusive of record keeping) per patient per year.

##### F. RECORDS.

The following records shall be kept on every patient and shall be properly filed:

1. Medical and social history.
2. Physical examination including graph of the chest.
3. X-ray reports.
4. Laboratory reports.
5. Dental record.
6. Progress notes and records of treatment.
7. Weight chart.
8. Temperature chart.
9. Summary and condition on discharge (based on the standards of the American Sanatorium Association).

**Report.** An annual report of the work of the sanatorium shall be compiled and a copy filed with the State Department of Public Health.



**G. X-RAY.**

There shall be X-ray equipment capable of producing satisfactory diagnostic roentgenograms of the chest and of making fluoroscopic examinations of the chest.

**H. SPECIAL SERVICES.**

In addition to the general medical supervision, the following special medical services shall be available:

1. Laryngoscopy.
2. Pneumothorax.
3. Out-patient diagnostic service.
4. Thoracic surgery.
5. Social service.
6. Vocational rehabilitation.

**II.**

**Minimum Requirements for Tuberculosis Hospital Serving Populations of 100,000 to 500,000.**

**A. BED CAPACITY.**

There shall be at least two hospital beds for each annual death from pulmonary tuberculosis in the population served by the hospital. At least 30 per cent of this bed capacity shall be single rooms. Although 30 per cent of the bed capacity, in single rooms, is considered necessary by the department, institutions not meeting this ratio but all other requirements will be accepted, provided any additional construction shall provide single rooms until the minimum of 30 per cent is reached.

There shall be an examining room, an X-ray and a clinical laboratory approved by the department for diagnostic work in tuberculosis, an operating room for pneumothorax, an X-ray viewing and conference room, nose and throat and dental equipment, a recreation room for patients and a library (either by itself or combined with the recreation room).

**B. MEDICAL SUPERVISION.**

In addition to the superintendent, who shall be a registered physician, there shall be another registered resident physician, and such additional resident physicians as are necessary to maintain a ratio of one physician to each 50 patients. There shall also be a qualified laboratory technician and a qualified X-ray technician.

**C. CONSULTATION STAFF.**

The staff shall include an internist (preferably one with special tuberculosis experience), a nose and throat specialist, an ophthalmologist, a thoracic surgeon, a bronchoscopist, a pathologist, and a general surgeon.

**D. NURSES.**

The superintendent of nurses and the assistant superintendent of nurses and the night supervisor shall be graduate nurses. The ratio of total nursing staff (including all grades of nursing attendants) to patients shall be at least 1 to 4 patients.

**E. DENTIST AND DENTAL CARE.**

The same as for Sanatoria of less than 100,000 population.

**F. TOTAL PERSONNEL.**

The ratio of total personnel to patients shall be at least 1 to 2 except when the sanatorium is on a forty-hour work week basis, in which case the ratio shall be at least 1 to 1.5.

**G. MEDICAL WORK.**

At least the following items shall be included and recorded for every patient as soon as possible after admission:

1. A clinical history covering chief complaint and present illness, family history of tuberculosis, past history with emphasis on previous manifestations of tuberculosis, possible source of the patient's present infection including occupational hazards and personal habits.

2. Temperature, pulse, and weight.

3. General physical examination with special emphasis on the chest and including an ear, nose, and throat examination.

4. Dental examination.

5. Tuberculin test.

6. Laboratory examination. A routine microscopical and chemical examination of the urine, a blood test for syphilis, and a complete blood count (including differential count) shall be done on admission. Also on admission a daily specimen of sputum shall be examined by smear until two positives or three negatives are obtained. If three negatives are obtained, they shall be followed by three examinations made on concentrated 24-hour specimens of sputum. If these three concentrates are negative, they shall be followed by at least one culture or animal inoculation of gastric washings.

7. X-ray. Every patient shall have a satisfactory X-ray of the chest on admission and thereafter as often as is necessary to determine the changes in his pulmonary lesions. Routine chest X-ray shall be made of every patient at least once every 4 months and one month or less before discharge.

**H. RECORDS.**

The following records shall be kept on every patient and shall be properly filed:

1. Medical and social history.



2. Physical examination including graph of the chest.
3. X-ray reports.
4. Laboratory reports.
5. Dental record.
6. Progress notes and records of treatment.
7. Weight chart.
8. Temperature chart.
9. Summary and condition on discharge (based on the standards of the American Sanatorium Association).

Report. An annual report of the work of the sanatorium shall be compiled and a copy filed with the State Department of Public Health.

#### I. X-RAY.

The same as for Sanatoria of less than 100,000 population.

#### J. SPECIAL SERVICES.

In addition to the general medical supervision, the following special services shall be available:

1. Pneumothorax.
2. Thoracic surgery.
3. Laryngoscopy.
4. Out-patient diagnostic service.
5. Social service.
6. Vocational rehabilitation.

### III.

#### Minimum Requirements for Hospitals Serving a Population of Over 500,000.

##### A. BED CAPACITY.

There shall be at least two hospital beds for each average annual death for the previous five year period from pulmonary tuberculosis in the population served by the hospital. At least 30 per cent of this bed capacity shall be single rooms. Although 30 per cent of the bed capacity, in single rooms, is considered necessary by the department, institutions not meeting this ratio but all other requirements will be accepted, provided any additional construction shall provide single rooms until the minimum of 30 per cent is reached.

There shall be an examining room, an X-ray and a clinical laboratory approved by the department for diagnostic work in tuberculosis, an operating room for pneumothorax, a recreation room for patients and a library (either by itself or combined with the recreation room), an X-ray viewing and conference room, and nose and throat and dental equipment.

##### B. MEDICAL STAFF.

1. Superintendent who shall be a registered physician.
2. Assistant Superintendent who shall be a registered physician.
3. Medical Director who shall be a registered physician.
4. A resident assistant physician for every 50 patients.
5. Qualified laboratory technician.
6. Qualified X-ray technician.
7. Pathologist.
8. Sufficient resident (or full-time) licensed dentists so as to meet the requirements specified above for dental care. A minimum of at least four hours of dental service (exclusive of record keeping) per patient per year.

##### C. CONSULTATION STAFF.

The staff shall include an internist (preferably one with special tuberculosis experience), a general surgeon, a thoracic surgeon, a bronchoscopist, a pathologist, an ophthalmologist, and a nose and throat specialist.

##### D. NURSES.

The same as in Sanatoria for 100,000 to 500,000 population.

##### E. DENTIST AND DENTAL CARE.

The same as in Sanatoria for 100,000 to 500,000 population.

##### F. TOTAL PERSONNEL.

The ratio of total personnel to patients shall be at least 1 to 2 except when the sanatorium is on a forty-hour work week basis, in which case the ratio shall be at least 1 to 1.5.

##### G. MEDICAL WORK

The same as in Sanatoria for 100,000 to 500,000 population.

##### H. RECORDS.

The same as in Sanatoria for 100,000 to 500,000 population.

##### I. X-RAY.

The same as in Sanatoria for 100,000 to 500,000 population.

##### J. SPECIAL SERVICES.

The same as in Sanatoria for 100,000 to 500,000 population.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 6/14/27 amended 6/5/28, 8/12/32, 1/17/39, 5/10/38, 10/21/48.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### FOR OBTAINING STATE SUBSIDY.

The Department of Public Health, acting under the authority of Section 76, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

#### FOR OBTAINING STATE SUBSIDY.

A. All tuberculosis hospitals or wards in which patients are to be cared for, as well as the laboratories where sputum examinations are made, and the physicians in charge of such hospitals or wards and such laboratories, must first be approved by the Department of Public Health.

B. (1) A subsidy of five dollars per week will be granted for any indigent patient whose sputum contains tubercle bacilli and who has a legal settlement in the city or town requesting reimbursement.

(2) The said subsidy may in special instances also be authorized by the Department of Public Health for certain patients whose sputum does not contain tubercle bacilli, but who after thirty days' observation are, in the joint opinion of the superintendent or medical director of the institution and a member of the Department designated by the Commissioner, bona fide cases of pulmonary tuberculosis.

C. The State subsidy will not be granted for:

(1) Cases having a legal settlement in cities and towns other than those making claims.

(2) Cases having no legal settlement in the Commonwealth.

(3) Cases where the patient, kindred or friends pay the amount of five dollars or more per week. However, in the case of partial payment by any of the said persons if the amount paid is less than five dollars per week the subsidy allowed will be the difference between the amount paid per week and the sum of five dollars.

D. Requests for State subsidy should contain the following information:

(1) Name and address of the patient.

(2) Place of legal settlement.

(3) Date of admission and name of hospital.

(4) Date of discharge, if patient has already left the hospital.

(5) Financial condition of patient.

(6) Financial condition of kindred liable by law.

(7) A verified statement made under the penalties of perjury (Chapter 187, Acts of 1926) that tubercle bacilli are contained in the patient's sputum, except in such special instances as may be authorized by the Department of Public Health under the provisions of Section B-2, above.

(8) An application with verified statement appended is also requested for all cases of readmission, including patients who have been on leave of absence for more than two days. This is in order to prevent payment of subsidy for patients on leave of absence for a longer period.

E. A monthly statement of all admissions and discharges from hospitals approved under the terms of the subsidy act by the Department of Public Health, must be sent in regularly to the office of the said Department.

F. An examination of sputum and a verified statement (Chapter 187, Acts of 1926) as to the presence of tubercle bacilli in the sputum, will be required at certain intervals for patients who are still under hospital care. In patients where the sputum has been consistently negative the subsidy previously allowed shall be discontinued if in the opinion of the Department the patient is not a bona fide case of pulmonary tuberculosis.

G. Claims for subsidy will not be approved hereunder for more than ten days prior to the date when notice is received by the office of this Department.

H. Hospitals shall not be approved for subsidy if within a reasonable time they have not complied with the minimum standards established by the Department of Public Health.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on May 11, 1920 amended 6/5/28; 2/14/33; 3/13/34.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO MINIMUM REQUIREMENTS FOR TUBERCULOSIS DISPENSARIES AS DEFINED BY THE DEPARTMENT OF PUBLIC HEALTH.

##### MINIMUM REQUIREMENTS FOR TUBERCULOSIS DISPENSARIES AS DEFINED BY THE DEPARTMENT OF PUBLIC HEALTH.

The Department of Public Health, acting under the authority of Section 57, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

##### 1. CONTROL AND MAINTENANCE.

The tuberculosis dispensary should be under the control of the local board of health.

It should be financed by:

- (a) The local board of health.
- (b) The local or county tuberculosis association (if the board of health is unable to assume the responsibility).

It should be located in one of the following places (in order of preference):

- (a) The municipal or county tuberculosis hospital.
- (b) The out-patient department of a general hospital.
- (c) A health center or offices of the local health department.

##### 2. SUPERVISION:

The State Department of Public Health has supervision over all tuberculosis dispensaries, through its District Health Officers, as provided in Section 92, Chapter 111 of the General Laws, as follows: "the district health officers shall annually make examination of—all dispensaries, both public and private, caring for diseases dangerous to the public health, —and report as to their condition and needs to those responsible for the management of said institutions." A copy of this report and recommendations, if any, should be forwarded to the Director of the Division of Tuberculosis, State Department of Public Health.

##### 3. ROOMS:

The dispensary shall have at least two outside rooms:

- (a) Anteroom or waiting room. (This may be used in common with other dispensary departments.)
- (b) Examining room. (This room must be reasonably quiet.) The rooms of the dis-

pensary shall be well lighted during the day without the aid of artificial light, shall be heated comfortably in cold weather, and shall be kept in a clean and sanitary condition at all times.

##### 4. EQUIPMENT:

Each dispensary shall be furnished with:

- (a) Accurate scales for weighing.
- (b) A desk or filing cabinet for records.
- (c) Record blanks.
- (d) Examining tools and couch or table.
- (e) Clinical thermometers.
- (f) Running water and adequate toilet facilities.
- (g) Facilities for receiving and transmitting to a laboratory sputum specimens and a supply of sputum containers for distribution.
- (h) Equipment for making tuberculin tests. (Old tuberculin can be obtained without charge from the State Department of Public Health.)
- (i) Accessories such as:  
Paper napkins, sputum cups, etc.  
Leaflets of direction and advice.  
Diet lists, etc.
- (j) The dispensary shall provide or have ready access to a completely equipped X-ray unit. (Affiliation with the X-ray department of a general hospital to which patients can be referred for roentgenology will be accepted in fulfillment of this requirement). For communities under 50,000 population portable X-ray equipment will be considered.

All equipment shall be kept in a clean and sanitary condition at all times.

##### 5. SERVICE:

All tuberculosis dispensaries shall be open during the day or evening, at a time to be determined by the local authorities in consultation with the district health officers, as seems best suited to the local needs.

##### 6. STAFF:

Each dispensary shall have appointed at least one physician and one nurse, both of whom shall be in constant, regular attendance at the dispensary sessions. The qualifications of physicians, and nurses, so appointed must be approved by the State Department of Public Health.



7. MINIMUM REQUIREMENTS FOR TUBERCULOSIS DISPENSARY NURSES:

Preliminary training: Applicant must be a high school graduate or have had an equivalent training. Applicant must be a registered nurse under the meaning of the present requirements of the State Board of Registration of Nurses, and should have had graduate training in public health nursing.

8. LOCATION:

The dispensary shall be reasonably accessible for the citizens who most need the services of a dis-

pensary. When feasible the dispensary should be located in the out-patient department of a general hospital or tuberculosis sanatorium where X-ray service is readily available.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 3/9/15, amended 7/11/16; 11/18/19; 1/1/20; 4/11/33.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO MINIMUM REQUIREMENTS FOR UNIFORM DISPENSARY RECORD SYSTEM.

##### MINIMUM REQUIREMENTS FOR UNIFORM DISPENSARY RECORD SYSTEM.

The Department of Public Health, acting under the authority of Section 57, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

##### I. RECORD BLANKS, FOLDERS AND RUBBER STAMPS: Lung diagrams (2)

- A. Consecutively numbered general card index arranged alphabetically by names. (Includes all suspicious, non-tuberculous, etc. examined at dispensary.)
- B. Street index arranged alphabetically by streets. (Indicate upon card upon removal.)
- C. Medical history card. (Approved by State Department of Public Health.)
- D. Nurse's card. (Approved by State Department of Public Health.)
- E. Correspondence size folders, consecutively numbered and arranged as per general card index, in which shall be kept medical history card and any letters or notices or information concerning case, and nurses' cards on closed cases.

F. Nurses' cards of resident cases filed separately, arranged alphabetically.

G. Form letter for tracing persons leaving one community for another, in duplicate, one copy to be sent to the State Department of Health.

H. Correspondence size folders arranged alphabetically, in which shall be kept letters, notices or information concerning cases not examined at dispensary.

##### II. FILING CABINET.

- A. Correspondence size unit.
- B. Card index tray.
- C. Cabinet for nurses' cards.

##### III. METHOD.

- A. Records shall be kept up-to-date.
- B. Monthly report to State Department of Public Health on prescribed form not later than the tenth of the following month.

##### IV. THESE REQUIREMENTS to be framed and placed in conspicuous place in dispensary.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on 7/14/25.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### GOVERNING THE HOSPITALIZATION OF PATIENTS WITH CHRONIC RHEUMATISM.

##### GOVERNING THE HOSPITALIZATION OF PATIENTS WITH CHRONIC RHEUMATISM.

The Department of Public Health, acting under the authority of Section 116A, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations.

1. Patients shall be accepted for treatment only upon written application of a licensed physician, upon forms provided by the Department of Public Health, and all such applications must be submitted to and approved by said Department.

2. In the selection of cases for treatment preference shall be given to indigent persons and no patient shall be admitted for treatment who has not regularly resided in the Commonwealth at least two out of the preceding three years.

3. Under the provisions of this Act no person

shall be hospitalized for a period exceeding six months.

4. Charges for the treatment of such patients shall be at a rate determined by the Department of Public Health and shall be clearly defined in the contract or contracts of the Department with the hospital or hospitals furnishing such treatment.

5. The hospital or hospitals caring for rheumatic patients under this Act shall promptly upon the discharge of each such patient furnish to the Department a written summary of the medical history giving the full diagnosis, stage of disease and prognosis on admission, outline of treatment given, condition and prognosis on discharge, disposition of case and recommendations. A copy of this report shall also be sent to the physician who signed the application for the patient's admission.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on May 8, 1945.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO THE REPORTING AND CONTROL OF VENEREAL DISEASES.

The Department of Public Health, acting under the authority of Section 6, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 265 of the Acts of 1938, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations relative to the Reporting and Control of Venereal Diseases.

1. Whenever a physician has reason to believe that a person whom he has examined is suffering from the venereal diseases, gonorrhea, syphilis, chancroid, granuloma inguinale, and lymphogranuloma venereum in any form or stage, he shall:—

*a. Report All Cases.*

Report immediately to the Department on the forms provided for this purpose, the name or initials of the patient, the complete address or community of residence, the age, sex, race, and marital status, stating also the name of the disease and its form or stage, and whether or not the patient has been under treatment elsewhere for this infection.

*b. Patient Changes Physician.*

Whenever a patient changes physicians, report this change to the physician who last treated the patient for this infection.

*c. Patient Stops Examination or Treatments Too Soon.*

Report to the Department any failure on the part of the patient to return for observation or treatment, unless the physician has satisfactory evidence that the patient is under the care of another physician for the infection, or has received adequate treatment for the infection, stating the name, address, age, sex, race, and marital status of the patient, the name and stage or form of the disease, the date of the last visit to the physician and the approximate date of infection. This report shall be made to the Department not more than one week after the date of the missed appointment in case of syphilis of less than two years' duration (whether acquired or congenital), syphilis in a pregnant woman, gonorrhea in any form or stage, and infectious chancroid, granuloma inguinale, and lymphogranuloma venereum; and not more than two weeks after the date of the missed appointment in all other forms or stages of syphilis, chancroid, granuloma inguinale, and lymphogranuloma venereum, provided that any physician who has available and uses the services of a competent epidemiologist within the time limits hereinbefore prescribed, may defer reporting the patient's fail-

ure to return for observation or treatment for two weeks from the date of the missed appointment where one week is hereinbefore prescribed and for four weeks where two weeks are hereinbefore prescribed.

*d. Patient Fails to Identify his Contacts.*

Report to the Department the patient who fails to cooperate with the physician in his attempt to bring to medical observation those persons, including members of the patient's family, from whom the patient may have acquired, or to whom the patient may have transmitted, his or her infection, stating the name, address, age, sex, race, and marital status of the patient and the reason for the report.

*e. Report of Patient's Contacts.*

Report to the Department the name, address, age, sex, race, and marital status, or as complete identification as can be obtained, of any person from whom a patient who has gonorrhea, syphilis, chancroid, granuloma inguinale, or lymphogranuloma venereum may have acquired, or to whom he or she may have transmitted, his or her infection.

*f. Minimum Requirement for a Negative Diagnosis in Women Who are Suspected of Having a Gonococcal Infection.*

Whenever a female is being examined because she has been exposed to gonorrhea or has been the source of infection of gonorrhea, the Department shall require that there be one or more negative smears and cultures of material taken from the urethra and cervical canal, in accordance with the instructions accompanying the outfit, before the Department will accept a report that the person is free from infection; these cultures to be made in a laboratory approved by the Department.

**NOTE:** Whenever a female contact of gonorrhea admits exposure, yet on examination has negative smears and cultures of the disease, with or without positive clinical signs and symptoms, she should be reported as presumptive gonorrhea and handled as if she were a diagnosed case.

*g. Report of Suspects.*

Report to the Department on the forms provided the name, address, age, sex, race, marital status, and other identifying data on all suspects of venereal disease who fail to return to medical observation within one week after being so notified by their physician or clinic. By definition, a suspect of venereal disease is any individual with a positive



physical and/or laboratory findings strongly suggesting the probable presence of venereal disease; example, a positive Hinton or other standard blood serologic test for syphilis.

2. ACTION WHICH MAY BE TAKEN BY THE DEPARTMENT.

The Department may forward to any board of health of any city or town a report stating the name, address or place frequented by or place of employment, age, sex, race, and marital status of any person reported to the Department by name under Regulation 1, c, d, and e, together with the reason for the report. Immediately upon the conclusion of such action as the board of health may take following receipt of such report, the board of health shall report the result of such action to the Department, provided that if the person cannot be found, the board shall so report to the Department.

CONTROL BY BOARDS OF HEALTH.

3. ACTION IN CASES OF ALLEGED CONTACTS.

Whenever a board of health shall receive a report from the department stating the name and address of, or place frequented by, a person who resides, or may be found, in the community in which the board has jurisdiction, and who is alleged to have been exposed to infection with a venereal disease, the board shall immediately advise this person to obtain medical care. Not less than five days nor more than one week after so advising this individual, the board shall determine whether, and by whom, the examination has been made. If, within two weeks of the date when first so advised, this person has not satisfied the board that he or she is under medical care or is free from infection with the venereal disease, the board shall isolate this person until the board is satisfied that this individual is not infected with the venereal disease.

4. PATIENT STOPS TREATMENT TOO SOON.

Whenever a board of health shall receive a report from the Department stating the name and address of, or place frequented by, a person who resides, or may be found, in the community in which the board has jurisdiction, and who has prematurely discontinued treatment for a venereal disease, the board shall immediately request this person to return to medical care. Not less than five days nor more than one week after such request, the board shall deter-

mine whether, and with whom, medical care has been resumed. If, within two weeks of the date of this request, this person has not resumed medical care, the board shall isolate the individual until it has been satisfied that the person's infection with the venereal disease is no longer communicable, or that this person will immediately return to medical care for his or her infection.

5. OCCUPATION OF SYPHILIS PATIENTS WITH OPEN LESIONS.

Whenever a board of health shall receive a report from the department stating the name and address or place frequented by, a person who resides, or may be found, in the community in which the board has jurisdiction, and who has open lesions of syphilis in the mouth or upon exposed portions of the body and who is employed at any occupation requiring contact with other persons, the board shall request this person to discontinue such occupation until the board is satisfied that the lesions are healed and that this person will remain under medical care for the infection. If an individual fails to discontinue such occupation immediately, the board shall remove this person to his home or to a hospital where he shall be isolated until the board is satisfied that the lesions are healed and that this person will remain under medical care for the infection.

6. PATIENT FAILS TO IDENTIFY HIS CONTACTS.

Whenever a board of health shall receive a report from the Department stating the name and address or place frequented by a patient suffering from gonorrhea, syphilis, chancroid, granuloma inguinale, or lymphogranuloma venereum, who resides or may be found in the community in which the board has jurisdiction, and who fails to cooperate with his physician in bringing to medical observation any person from whom the patient may have acquired, or to whom he may have transmitted his infection, the board shall immediately isolate this patient and shall retain him in isolation until he or she will cooperate or until the infection is no longer communicable.

Prescribed and established by the Department of Public Health at the meeting of the Public Health Council held on Dec. 18, 1917 amended 5/21/18; 6/11/18; 3/11/19; 11/12/23; 10/1/25; 10/8/29; 1/14/30; 1/14/36; 8/9/38; 4/11/44; 11/3/48.



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### RELATIVE TO TREATMENT FOR PERSONS SUFFERING FROM VENEREAL DISEASE WHO ARE UNABLE TO PAY FOR PRIVATE MEDICAL CARE.

The Department of Public Health, acting under the authority of Section 117, Chapter 111 of the General Laws appearing in the Tercentenary Edition thereof, as amended by Chapter 391 of the Acts of 1937, amended by Chap. 129, Acts of 1948, and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations relative to the Provision of Treatment for Persons Suffering from *Venereal Disease* Who Are Unable to Pay for Private Medical Care.

#### COOPERATING CLINICS

##### Designation as a Cooperating Clinic.

1. Application for designation as a cooperating clinic shall be made in writing to the Massachusetts Department of Public Health by the superintendent or director of the institution or agency which maintains and operates the clinic, or, for local board of health or health department clinics, by the local board of health or health commissioner.

2. The Department reserves the right to accept or reject any application for a designation as a cooperating clinic, or to revoke after a hearing such designation for cause.

3. No clinic will be designated as a cooperating clinic which is not maintained and operated by an incorporated charitable organization, and which is not located upon premises used predominantly for the purposes of the said incorporated charitable organization, except that any clinic maintained by a municipal hospital or a local board of health or health department, or any state institution, may be so designated.

4. No clinic will be designated as a cooperating clinic which is maintained by a general hospital whose charter or by-laws discriminate against the admission to the hospital of any person because of infection with *venereal disease* or whose trustees or superintendent so discriminate.

##### Duties of a Cooperating Clinic.

5. A cooperating clinic shall register with the Department, on forms provided for that purposes, every patient with *venereal disease*, every contact and every suspect, who visits the clinic subsequent to its designation as a cooperating clinic. A contact, within the meaning of these regulations, is any person who may have been exposed to, or who may have

been the source of a *venereal disease*. A suspect is any individual with a positive physical and/or laboratory findings strongly suggesting the probable presence of *venereal disease*.

6. A cooperating clinic shall submit visit vouchers for each visit of every patient, contact, and suspect registered with the Department, on forms provided by the Department for that purpose. The visit vouchers, properly executed, shall be forwarded to the Department within twenty-four hours after the end of each clinic day, excluding Sundays and holidays.

7. A cooperating clinic shall submit bills, in triplicate, promptly at the end of each calendar month, on forms provided by the Department for that purpose.

8. A cooperating clinic shall permit authorized representatives of the Department to examine the clinic record of any patient, contact, or suspect at any reasonable time.

9. A cooperating clinic shall dispense any ordinary drugs or appliances necessary to the treatment of *venereal disease* to any patient who cannot afford to purchase the prescribed drugs or appliances.

10. A cooperating clinic shall provide the cost of transportation to the patient, contact, or suspect for those who cannot afford necessary transportation to and from the clinic.

##### Reimbursement of Clinics.

11. Only cooperating clinics will be reimbursed for the treatment of *venereal disease* or the observation of contacts and suspects.

12. Reimbursement for services rendered in the operation of a *venereal disease* clinic will be in accordance with agreements made by this Department, and subject to the following qualifications.

a. If any patient, contact or suspect can pay any part of the clinic's established fee, he or she shall be required to do so, and the total amount so collected from such patients' contacts and suspects should be deducted from the clinic bill submitted.

b. For registration and record purposes only those visits by contacts and suspects which are necessary to determine whether the person is infected should be submitted, but in no case for



*longer than two weeks after the date of admission to the clinic if there was exposure to gonorrhea, or three month after the date of admission to the clinic if there was exposure to syphilis.*

13. Reimbursement will also be made for such sums paid by the clinic to patients, contacts, or *suspects* for necessary transportation to and from the clinic and which the patient, contact, or *suspect*, cannot afford to pay; provided that the cheapest form of reasonable transportation be used, unless an acute emergency requires the use of more expensive conveyance. The cost of transportation may be provided, subject to reimbursement only from the point from which the patient comes directly to the clinic and to the point to which the patient must go directly from the clinic, but in no case shall the cost exceed that of transportation to or from the patient's, contact's or *suspect's* place of residence or employment. Costs of transportation will not be subject to reimbursement by the Commonwealth, except for reasons acceptable in each case to the Commissioner of Public Health, if the patient, contact, or *suspect* attends any other cooperating clinic than the one to and from which transportation costs are the minimum. The amounts paid to any patient, contact, or *suspect* for transportation costs shall be stated upon the corresponding visit voucher.

#### HOSPITALS.

14. Any municipal hospital, or any general hospital incorporated as a charitable agency, may apply for reimbursement for the treatment of a patient for *venereal disease* who cannot afford to pay for hospital care. The application must be made in writing immediately upon the admission of the patient or as soon thereafter as the diagnosis can be established, and shall state the case number of the patient, the diagnosis, and the particular circumstances which make hospitalization necessary, and it shall be signed by the superintendent of the hospital.

15. The applying hospital will be reimbursed, at rates to be fixed by the Department from time to time, subject to the following qualifications:—

a. For the treatment of only those patients who, in the opinion of the Commissioner of Public Health, after review of the application, are in need of hospital care because of active infection with *venereal disease*.

b. For only such hospital care as may be provided after the diagnosis has been made and because of active infection with *venereal dis-*

*ease*, but in no case shall reimbursement be made for expenses incurred prior to the five days before the application for reimbursement is received by the Department, *except when in the opinion of the Commissioner a justifiable cause for delay exists.*

c. No application for reimbursement will be approved by the Department which is submitted by any hospital whose charter or by-laws discriminate against the admission of any person because of infection with *venereal disease* or whose trustees or superintendent so discriminate.

16. Bills shall be submitted to the Department in duplicate, at the end of each calendar month upon forms *approved and supplied by the Department.*

17. The per diem rate of reimbursement for *in-patient care* as established by the Department shall constitute reimbursement in full for all services rendered the patient.

a. Reimbursement will also be made for such sums paid by the hospital to patients for necessary transportation to and from the hospital and which the patient cannot afford to pay; provided that the cheapest form of reasonable transportation be used, unless an acute emergency requires the use of more expensive conveyance. The cost of transportation may be provided, subject to reimbursement, only from the point from which the patient comes directly to the hospital and to the point to which the patient must go directly from the hospital, but in no case shall the cost exceed that of transportation to or from the patient's place of residence or employment. Costs of transportation will not be subject to reimbursement by the Commonwealth, except for reasons acceptable in each case to the Commissioner of Public Health, if the patient attends any other hospital than the one to and from which transportation costs are the minimum. The amounts paid to any patient for transportation costs shall be stated upon the corresponding monthly bill.

18. Authorized representatives of the Department shall be permitted to examine at any reasonable time the hospital record of any patient for whose care reimbursement is requested.

Prescribed and established by the Department of Public Health at the meeting of the Public Health Council. Adopted 2/14/33; amended 8/10/37; 8/9/38; 9/12/39; 11/6/40; 4/13/48; 11/3/48.



## The Commonwealth of Massachusetts

### DEPARTMENT OF PUBLIC HEALTH

## RULES AND REGULATIONS

### RELATIVE TO APPROVED PROPHYLACTIC REMEDY FOR USE IN THE EYES OF INFANTS AT BIRTH.

The Department of Public Health, acting under the authority of Chapter 115 of the Acts of 1936 and every other act thereto enabling hereby prescribes and establishes the following rules and regulations relative to the procedure for the protection of an infant's eyes against infection at birth.

A one per cent filtered solution of silver nitrate, U.S.P., in distilled water, stored in ampoules for single use, the ampoules to be protected against penetration of light and provided that if the ampoule must be broken, it shall not be made of glass or other shatterable material which might cause injury to the eye, and further provided that the ampoule or its container shall bear an expiration date which shall not be later than six months after the date of preparation of the solution and that no solution shall be used after said date of expiration.

Under the provisions of Chapter 115 of the Acts of 1936, no prophylactic remedy may be used, after June 4, 1936, for the treatment of the eyes of infants at birth which is not furnished or approved by the Department of Public Health.

The Department recommends the following procedure for the protection of an infant's eyes against infection at birth:

1. Every pregnant woman, concerning whom there is the least suspicion of gonococcal infection, should be so treated for the infection, both during pregnancy and at delivery, that the birth canal may be as free as possible from the gonococcus during the birth of the baby.

2. The following order of procedure is recommended for the use of the prophylactic in the baby's eyes:
- a. Clean the skin of the four eyelids with cotton pledgets moistened in boric acid solution, using separate pledgets for each eye.
  - b. Thoroughly irrigate the conjunctival sac of each eye with boric acid solution, using a sterile soft rubber ear syringe.
  - c. Retract the eyelids, digitally, and instill one drop of a one per cent solution of silver nitrate into each eye, preferably near the outer canthus, and allow the solution to remain in contact with the conjunctiva for at least two minutes.
  - d. Irrigate the conjunctival sac of each eye with sterile normal salt solution to prevent chemical conjunctivitis.
  - e. Secure the services of an ophthalmologist upon the first appearance of suppurative conjunctivitis and insist upon a bacteriological report on the conjunctival secretions.
3. Precautions:
- Since corneal abrasions promote ulceration in the presence of the gonococcus, great care must be taken to avoid conflict between the cornea and the finger manipulating the eyelids, the irrigating syringe or the eye-dropper, if the above recommended procedure is carried out.

Prescribed and established by the Department of Public Health at the meeting of its Public Health council held on May 12, 1936.



# The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH

## RULES AND REGULATIONS

### RELATIVE TO PORK PRODUCTS INTENDED TO BE EATEN WITHOUT COOKING.

Regulations of the Department of Public Health relative to hams, pork butts and sausage containing pork products intended to be eaten without cooking, made under the provisions of Section 192, Chapter 94, of the General Laws.

No person shall manufacture, sell, offer for sale or deliver any article of food of a kind prepared customarily to be eaten without cooking containing any muscle tissue of pork, unless the pork has been subjected to a temperature sufficient to destroy all live trichinæ, or unless it be subjected to some other treatment sufficient to destroy all live trichinæ.

FIRST.—If the heating method is employed, the muscle tissue of pork shall have been subjected to heat so that all portions shall be heated to a temperature not lower than 137° Fahrenheit.

SECOND.—If refrigeration is employed, the pork shall have been subjected to refrigeration not less than twenty days at a temperature not higher than 5° Fahrenheit, provided, however, that pork does not exceed one hundred pounds weight per package. If in barrels or tierces, the pork shall have been subjected to refrigeration not less than thirty days at a temperature not higher than 5° Fahrenheit.

THIRD.—If curing methods are employed, sausage meat shall be ground or chopped into pieces not exceeding three-quarters of an inch in diameter. A dry curing mixture containing not less than three and one-third pounds of salt to each one hundred weight of the unstuffed sausage shall be thoroughly mixed with the meat. After stuffing, the sausage shall be held in the drying room not less than twenty-five days at a temperature not lower than 45° Fahrenheit, provided, however, that in preparation of sausage known as Pepperoni, the sausages shall be held in the drying room not less than twenty days.

FOURTH.—Hams shall be cured by a dry curing process not less than forty days at a temperature

not lower than 36° Fahrenheit. The hams shall be laid down in salt not less than four pounds to each hundred weight of ham, the salt being applied in a thorough manner to the lean meat of each ham. When placed in cure, the hams may be pumped with pickle if desired. At least once during the curing process the hams shall be overhauled and additional salt applied, if necessary, so that the lean meat of each ham is thoroughly covered.

After removal from cure, the hams may be soaked in water at a temperature not higher than 70° Fahrenheit for not more than fifteen hours, during which time the water may be changed once; but they shall not be subjected to any other treatment designed to remove salt from the meat, except that superficial washing may be allowed. The hams shall finally be pale-dried or smoked not less than ten days at a temperature not lower than 95° Fahrenheit.

FIFTH.—Boneless pork butts for coppa shall be cured in a dry curing mixture containing not less than four and one-half pounds of salt per one hundred weight of meat and for a period of not less than eighteen days at a temperature not lower than 36° Fahrenheit. If the curing mixture is applied to the butts by the process known as churning, a small quantity of pickle may be added. During the curing period the butts may be overhauled according to any of the usual processes for overhauling, including the addition of pickle or dry salt if desired. The butts shall not be subjected during or after curing to any treatment designed to remove salt from the meat, except that superficial washing may be allowed. After stuffing, the product shall be held in a drying room not less than thirty-five days at a temperature not lower than 45° Fahrenheit.

Approved February 12, 1924.

# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC HEALTH

### RULES AND REGULATIONS

#### CHAPTER 130. MARINE FISHERIES.

##### Transporting Shellfish into the Commonwealth Regulated. Certificates for Etc.

SECTION 81. No person shall transport, or cause to be transported, into this commonwealth for consumption as food any shellfish taken or dug from areas outside the commonwealth, or sell, cause to be sold, or keep, offer or expose for sale for consumption as aforesaid any shellfish so taken or dug, unless there is on file in the department of public health a certificate, approved by said department, in which the state board or department of health or other board or officer having like powers of the state, country or province where such areas are situated states that such areas are free from contamination, and also a certificate, approved as aforesaid, in which such state board or department of health or other board or officer having like powers states that the establishment and equipment of the person shipping said shellfish into the commonwealth are in good, sanitary condition, nor shall any person transport or cause to be transported within this commonwealth any shellfish for consumption as food, unless the container of such shellfish shall at all times, while in such transportation, bear a label or tag legibly marked with the name and address of the producer and of the shipper thereof and the numbers of such certificates, and the name of the place where and the date when taken, and absence of such label or tag so marked or failure to allow an inspection shall be prima facie evidence of violation of this section; provided, that the foregoing provisions relative to transportation shall not apply to common carriers, their servants or agents. No such certificate shall be approved by the department of public health which does not meet the provisions of the laws, rules, regulations and requirements of the United States as to interstate commerce in shellfish.

A list of certificates shall be filed with the director.

Whoever violates any provision of this section shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment for not more than thirty days, or both. The provisions of this section shall be enforced by the department of public health, local boards of health, the director and all officers qualified to serve criminal process; provided, that the provisions of this section and of section eighty-two shall not apply to shellfish taken from an area declared to be contaminated under the provisions of section seventy-four or corresponding provisions of earlier laws. This section does not apply to scallops.

1941, 598, § 81, 1945.

##### Shellfish to Be Marked with Source of Supply Etc.— Penalty.

SECTION 82. No wholesale or retail dealer in shellfish, and no person holding a victualler's license, shall receive any shellfish unless the same bears a label or tag legibly marked with the source of supply, the date when taken, and either the certificate or permit number or the name and address of the producer or shipper, and all shellfish in transit shall bear such label or tag so marked. He shall for sixty days after receipt of such shellfish keep in his place of business a record of the markings on such tag or label, which record shall at all reasonable times be open to inspection by any representative of the division or of the department of public health. Whoever violates any provision of this section or fails or neglects to furnish the required label or tag or furnishes such a label or tag bearing false or misleading information shall be punished by a fine of not less than ten nor more than fifty dollars or imprisonment for thirty days, or both. This section does not apply to scallops.

1941, 598, § 82, 1945.



## THE COMMONWEALTH OF MASSACHUSETTS

## Department of Public Health

## RULES AND REGULATIONS

## Relative to Cross Connections Between Public Water Supplies and Fire and Industrial Water Supplies

The Department of Public Health, acting under the authority of Section 160 of Chapter III of the General Laws (Tercentenary Edition) and every other act thereto enabling, hereby prescribes and establishes the following rules and regulations relative to cross connections between public water supplies and fire and industrial water supplies, which shall remain in force until further ordered and which may be hereafter from time to time amended or added to by the Department of Public Health. The provisions of the following rules and regulations, as far as they are the same as those of the existing rules and regulations, shall be construed as a continuation thereof and not as new provisions. The rules and regulations adopted on February 9, 1937, and amended on May 12, 1942, are hereby repealed.

Rule 1. After December 31, 1937, no physical connection between the distribution system of a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, and that of any other water supply shall be permitted, unless such other water supply is approved by the Department of Public Health as being safe sanitary quality and the connection of both supplies is approved by the Department of Public Health.

No officer, board, corporation or other person or group of persons, owning or having the management or control of any water supply, the water of which is furnished to any municipality or district for drinking and/or domestic and/or culinary purposes shall supply water to any person, firm or corporation maintaining such a connection.

Provided: Where such physical connection exists on December 1, 1937, the date of discontinuance may be temporarily extended with the permission of the Department of Public Health provided it includes two gate valves with suitable indicators and two check valves with drip cocks, gages for testing, all located in a pit or room having facilities for draining and readily accessible for periodic inspection and overhauling of the equipment, the entire installation and design of which are approved by the Department of Public Health.

Rule 2. If a public water supply, the water of which is used for drinking and/or domestic and/or culinary purposes, is used as an auxiliary supply delivered to a tank also supplied with water from a source with which cross connections are not permitted by Rule 1, such tank shall be subject to the approval of the Department of Public Health and shall be open to atmospheric pressure and the water shall be supplied to the tank above the maximum level of water in the tank. The tank overflow shall be of adequate size to fix definitely the maximum level.

If the water supply is stored in a tank supplied only from a water supply approved by the Department of Public Health for drinking and/or domestic and/or culinary purposes and directly connected to a water supply, also approved by the said Department of Public Health, such tank shall be so constructed as to avoid any possible contamination of the water in the tank and shall be subject to the approval of the Department of Public Health.

Prescribed and established by the Department of Public Health at the meeting of its Public Health Council held on February 8, 1949.





## THE COMMONWEALTH OF MASSACHUSETTS

## Department of Public Health

## REGULATIONS

## ESTABLISHING THE MINIMUM STANDARDS OF FITNESS FOR HUMAN HABITATION

The Department of Public Health, acting under the provisions of Section 128 of Chapter III of the General Laws, as amended by Chapter 468 of the Acts of 1943 and Chapter 631 of the Acts of 1947, hereby makes the following regulations establishing the minimum standards of fitness for human habitation for adoption by cities and towns as provided in Chapter 631 of the Acts of 1947.

These regulations are grouped under each subject as follows:

Regulations bearing "A" designation relate to the first paragraph of Section 128 of the General Laws, as amended by Chapter 468 of the Acts of 1943 and Chapter 631 of the Acts of 1947. Regulations bearing "B" designation relate to the second paragraph of the said Section 128.

Violation of any of the regulations designated "A" constitutes cause for finding that a dwelling place or its premises are unfit for human habitation and may become a cause of sickness or a nuisance. Failure to conform to two or more of the regulations designated "B" is sufficient reason for finding unfit for human habitation a building or any portion thereof, leased or rented and occupied as a dwelling place.

Definitions. The following words used in these regulations shall have the following meanings:

"Dwelling place", building or structure used for human habitation, including all units therein and the premises thereof.

"Premises", the building and the piece of land on which it stands.

"Dwelling unit", a room or series of connecting rooms for living purposes containing a complete kitchen or kitchenette.

"Light housekeeping unit", a room or group of rooms used for living purposes, containing portable or other cooking and refrigeration facilities not installed in a separate kitchen room.

"Room unit", a rented room or group of rooms, containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within a structure or within a dwelling unit.

"Ordinary minimum winter conditions", 15 degrees Fahrenheit above the lowest temperature recorded for the locality concerned during the preceding ten year period.

#### 1. Occupancy.

A. The number of occupants of any dwelling unit shall be less than the number which would result in such overcrowding as to make the unit unfit and which might result in its being a cause of sickness or a nuisance. Violation of any of the following standards constitutes such overcrowding:

1. Dwelling units consisting of more than one room shall have a total area, exclusive of passageways, storage space, and bathrooms, of at least ninety (90) square feet per occupant up to and including four persons and an additional sixty (60) square feet per additional occupant thereof. In computing the total floor area, only that portion of an attic room shall be counted which has a clear height of at least five (5) feet under a pitched roof or seven (7) feet under a flat roof. No room shall be used for sleeping purposes unless it contains fifty (50) square feet of floor area for each user.

#### 2. A light-housekeeping dwelling

## REGULATIONS

unit or a rooming unit used for both living and sleeping purposes shall have not less than ninety (90) square feet of floor area per occupant unless a common living room of at least one hundred and eighty (180) square feet with fifteen (15) square feet additional floor area for each unit above the first ten; is provided in the building. Where a common room is so provided, a one-room light-housekeeping dwelling or rooming unit shall have not less than eighty (80) square feet of floor area, and shall have not less than sixty (60) square feet of floor area per occupant.

## II. Cleanliness.

A. Violation of any of the following standards constitutes uncleanness which renders a dwelling unit unfit and which may cause it to become a source of sickness or a nuisance.

1. Garbage, rubbish, dirt, or other insanitary matter shall not be allowed to accumulate in the rooms, halls, stairways, or in other parts and premises of a building used as a dwelling place.

2. Unless there are installed means of immediate garbage disposal, satisfactory to the Board of Health, tight-covered, metal garbage receptacles of sufficient capacity shall be provided by the occupant of each dwelling unit; in buildings of more than three dwelling units with common halls or exits, the owner shall provide and maintain in the yard or near the door used by the garbage collectors, tight-covered metal receptacles of sufficient capacity for receiving and storing the garbage from the dwelling units pending collection or disposal.

All garbage shall be placed in such means of disposal or receptacles by the occupants, and when it is the responsibility of the owner to provide receptacles as required above, he shall have it collected at least twice a week and put in proper storage at a point readily accessible for final collection or disposal.

3. Unless there are installed means of immediate disposal of rubbish, dirt or other

insanitary matter, which are satisfactory to the Board of Health, covered metal containers shall be provided and used as receptacles by the owner or occupant, respectively, as provided in the above paragraph regarding garbage.

4. Yards, courts, areaways, vent shafts and passageways shall be drained to prevent the accumulation of water.

B. In leased or rented structures occupied as dwelling places the owner and occupant respectively have the following responsibilities in keeping the premises clean and free from rubbish:

1. An occupant shall keep his dwelling unit, and the building and premises or portion thereof over which he has control, in a clean and sanitary condition.

2. An owner shall keep those portions of the building and premises, for which no tenant is responsible, in a clean and sanitary condition. He shall, subject to the satisfaction of the Board of Health, whitewash, paint or paper the common area of the building and the family dwelling units therein.

## III. Dampness.

A. and B. Violation of any of the following standards constitutes a condition under which dampness may become a nuisance or be a source of sickness to the occupants or to the public, and renders a dwelling place unfit:

1. A structure used or intended to be used as a dwelling place, located in an area with a high ground water table or subject to chronic or repeated flooding or dampness, shall have the cellar, basement, or other foundations, walls or floor in contact with the ground waterproofed in a manner satisfactory to the Board of Health.

2. Any condition found by the Board of Health to be causing chronically or repeatedly damp floors, walls, or ceilings, in any interior space in a building used for dwelling purposes shall be remedied by the owner.



## REGULATIONS

B. In leased or rented structures occupied as dwelling places the following means of preventing dampness shall be provided:

1. Cellars and basements shall have at least two screened outside windows for cross-ventilation.

2. Buildings having no basement or cellar, shall have a dry and crossed-vented air space beneath the first floor of all parts thereof used for habitation, except in case of buildings having water and damp-proof floors laid on the ground level.

V. Vermin Infestation.

A. Vermin infestation either by insects or rodents may be a source of sickness to the occupants or to the public or become a nuisance, and renders a dwelling place unfit for human habitation.

Owners and tenants, respectively, have the following responsibilities in preventing or remedying infestations:

1. When vermin infestation either by insects or rodents is found in more than one dwelling unit within a building, the owner shall exterminate the vermin by methods approved by the Board of Health. When such an infestation is found in but one unit, the occupant shall exterminate all vermin by methods approved by the Board of Health.

2. The owner of a building containing one or more dwelling units, located in an area found by the Board of Health to be infested by rats, shall carry out such rat stoppage or other means of preventing or remedying such infestation of said building and its premises as may be required by the Board of Health.

3. From May fifteenth to October fifteenth, the openable portion of windows required under Section VI of these regulations shall be provided by the owner with screens which will effectively prevent the entrance of flies and mosquitoes, unless other means satisfactory to the Board of Health are furnished.

V. Cellar and Basement Living.

A. Violation of any of the following standards regarding light, ventilation, and prevention of dampness, makes a cellar or a basement unfit for dwelling purposes, and may result in its becoming a nuisance or being a source of sickness to the occupants or to the public:

1. Rooms or other space in a basement, which is a story partly underground but having at least one-half of its height above the level of the curb or of the adjoining fifteen foot width of ground, may be used for sleeping, cooking, and eating, only upon the written permission of the Board of Health and provided the walls and floor thereof in contact with the earth have been damp-proofed in accordance with a method approved by the Board of Health; and provided that the windows thereof are at least 15 feet from the nearest building or wall, and that the total window area thereof is no less than 12 per cent of the total floor area of such basement, and that said windows can be opened to the extent of not less than 6 per cent of such floor area, and are so distributed as to permit cross-ventilation within any dwelling unit or part thereof located therein.

2. No room or other space in a cellar which is a story, having more than one-half of its height below the adjoining ground level, shall be used for sleeping, cooking or eating.

VI. Light and Ventilation.

A. Violation of any of the following standards constitutes a condition under which insufficient light and ventilation renders a room or other interior space unfit and may cause it to become a nuisance or be a source of sickness to the occupants or to the public:

1. Every room or other interior space in a dwelling place, except toilets and bathrooms, pantries, and kitchenettes of less than 50 square feet of floor area, and other than passageways and storage spaces, shall contain at least one window of not less than 8 square feet, opening directly to the outside air, upon a street, yard, court, or vent shaft not less

## REGULATIONS

than 25 square feet in area and in no part less than 4 feet wide. Any such window shall be capable of opening to an extent of at least 40 per cent of its area.

2. Any such room, defined in the above paragraph, with a depth from an exterior wall in excess of 12 feet shall have a window or other glass area in its exterior walls or roof measuring not less than 8 per cent of its total floor area; if such depth exceeds 16 feet, the window or glass areas shall measure not less than 10 per cent of the said floor area. At least 40 per cent of any such window or glass area shall be openable.

3. The window or glass area opening directly to the outside air as in VI A 1, of any bathroom, toilet or kitchenette of less than 50 square feet of floor area shall measure at least 10 per cent of its floor area, but not less than 3 square feet, and the aggregate openable area shall be not less than 50 per cent thereof.

4. Every portion of any interior passage-way or staircase common to two or more families in a building used for human habitation shall be illuminated naturally or artificially at all times with an illumination of at least three lumens per square foot (3-foot candles). Artificial lighting equipment shall be of a type approved by the fire department.

#### VII. Good Repair and Serviceability.

B. In leased or rented structures occupied as dwelling places the owner shall keep the walls, roofs, ceilings, floors, stairs, doors, and windows in good repair and serviceability as defined in the following standards: The walls, roofs, ceilings, floors, stairs, doors, and windows shall be so maintained as to be capable of fulfilling their essential purposes of weather tightness and functional utility, and shall present no health hazards.

##### 1. Weather-tightness

a. The roof, exterior walls, windows and doors and the areas around the frames

thereof, shall be free of holes, breaks, or porous areas capable of admitting rain or wetness into the interior spaces of the building.

b. Holes or breaks in inside wall and ceiling surfaces or separations between structural members such as at a joint between a floor and wall or between an exterior wall and a door or window frame, which freely admit wind or which are a source of heat loss and discomfort shall not be permitted.

##### 2. Functional utility.

a. Inside walls and ceilings shall be free from holes and breaks through the structural material which would result in lack of privacy in dwelling units;

b. Floors shall be capable of supporting occupants and essential furniture and equipment. In no case shall any part of a floor perceptibly shake or sag when stamped upon;

c. Inside stairs and outside steps shall be capable of supporting the maximum number of users normal to their location. In no case shall such stairs or steps perceptibly shake, sag, or sway when used by two adults abreast. Such stairs and steps shall be neither so steep or narrow nor so lacking in normal head room that to the Board of Health inspector they are noticeably difficult to use. Normal headroom for adults shall be provided;

d. Windows and exterior doors of a building and interior entrance doors to separate dwelling units or to rooms containing sanitary facilities shall be found by the Board of Health inspector capable of serving their respective functions of lighting, ventilation, affording ingress and egress, and affording privacy.

##### 3. Health hazards.

a. Ceilings, floors, stairs, steps and inside walls shall be free from rotting areas and such holes or breaks through the structural material and from



such loose, bulging or hanging structural surface material which could afford harborage for vermin, could cause users to fall or trip, or collapse of which would constitute a hazard. Stairs and steps shall have no irregularity of riser nor slope in tread, which might throw a user off balance. Stairs and steps shall be equipped with firm handrails on at least one side when there are more than three risers in succession, and any balcony, and a porch connected with such stairs or steps, shall be provided, on the open sides, with firm guard rails or other means of preventing users from falling off.

#### VIII. Water Supply, Sewage Disposal, and Related Equipment.

A. Violation of any of the following standards constitutes a major deficiency in sanitary facilities which may become a nuisance or be a cause of sickness to the occupants or to the public, and which makes a dwelling place unfit:

1. An adequate supply of water from a safe source shall be piped into each dwelling unit of buildings used for human habitation. Where houses are located in sparsely settled or rural areas and where water cannot be piped without excessive expense, the Board of Health may exempt such houses from the requirement that water shall be piped into the dwelling unit, provided a safe source is available.

2. Where piped water is available there shall be provided within each dwelling unit at least one sink with proper drain for washing dishes and clothes as well as for personal cleanliness.

3. Every building used for human habitation shall be provided with such number of water closets or sanitary privies, as the Board of Health may require, but in no case less than one for each dwelling unit of more than two rooms, nor less than one for every two dwelling units of two rooms or less.

4. No water closet shall be installed or continued in use in the cellar of any building

used as a dwelling place without a permit in writing from the Board of Health.

5. The water closet for each dwelling unit shall be accessible from within the building without passing through any part of any other dwelling unit; and such water closet shall be separated from any other room by walls of material and construction approved by the Board of Health and shall be accessible from any bedroom within the unit without passing through any other room used for sleeping.

6. Every sink, tub, shower, toilet, or other plumbing fixture in a building used for habitation shall be provided with a proper and unobstructed drain which discharges into a sewerage system outside the building, and said fixtures and drains shall be maintained by the owner in a sanitary working condition at all times.

7. Where connection to a public sewer is not practicable, buildings shall be served by cesspools, septic tanks or other means of sub-surface disposal of sewage, which shall be approved by the Board of Health and maintained by the owner so as to prevent overflow.

8. No privy shall be constructed or continued in use, except by written permit from the Board of Health. No privy shall be located less than 20 feet from any building used for sleeping or eating, or from any lot line or street. No privy shall be a source of pollution of any water supply.

9. Water closets, tubs, sinks, and shower stalls, installed in a dwelling place, together with all fixtures thereof, shall be maintained in a water-tight condition. The space underneath the seat and around the bowl of a water-closet shall not be enclosed.

A. and B. In leased or rented structures occupied as dwelling places, the owner and tenant respectively have the following responsibilities:

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1. Water closets and drains therefrom shall be maintained in working order by the owner. The fixtures shall have no structural cracks or breaks and shall be free of leakage or obstruction. The water closet shall have a smooth and washable seat in good repair.

2. A watercloset shall be maintained clean by the occupant when it is within a dwelling unit; any water closet located elsewhere shall be maintained clean by the owner. The seat, fixtures and the floor around any water closet shall be kept free of accumulations of wastes.

3. The water closet shall be in a room or compartment, the door of which can be closed, and which is served with artificial lighting of at least three lumens per square foot. When serving more than one family, the door shall be provided with a lock to afford privacy.

IX. Heat-Generating Equipment.

B. In leased or rented structures occupied as dwelling places, the following standards define the minimum adequacy and proper maintenance of heat-generating equipment:

1. There shall be an installed heater in more than one-fourth of the rooms of a dwelling unit. Where no heater is installed in a room, in addition to doors, there shall be, for circulation of air, an opening to a room with an

installed heater. An installed heater is a radiator or register connected to a central furnace, a heating stove connected by rigid smoke-pipe to a chimney or other flue, a built-in or portable electric or built-in gas radiator, or a usable fireplace. A pipeless furnace or a flue-connected circulating heater may be considered adequate heating equipment for five rooms or less in a dwelling unit located on two floors.

2. When two or more dwelling units are centrally heated, inability to maintain during the day a temperature in the living and working rooms of at least 68 degrees Fahrenheit at 18 inches from the floor when the outside temperature is 55 degrees F. or less but not below ordinary minimum winter conditions shall be considered evidence of inadequate or defective heat-generating equipment.

3. In the case of those rented units where the occupant furnishes his own heating equipment, the owner shall provide properly functioning flues or other connecting facilities necessary for the installation of adequate heat generating facilities and the occupant shall make and maintain the required number of installations.

4. A building used for dwelling purposes shall be maintained by the owner in a weather-proof condition so as to be capable of being adequately heated at reasonable expense by such equipment.

Approved December 6, 1949.



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC HEALTH  
RULES AND REGULATIONS

Relative to Issuance of Premarital Medical Certificates

The Department of Public Health, acting under the authority of Chapter 207, Section 28A of the General Laws, as amended by Chapter 113, of the Acts of 1950, hereby prescribes and establishes the following rules and regulations.

1. Communicable syphilis is defined as the primary, secondary, and early latent stages of syphilis.

2. In addition to the Massachusetts Laboratories holding certificates of approval for performing serologic test for syphilis, other laboratories acceptable to the Department are those of the Armed Forces and Public Health Service of the United States and any laboratory operated by, or for, a State Department of Public Health, District of Columbia, New York City, or Territorial Health Department of the United States, and the laboratories of the Provincial Health Departments of Canada.

3. The serologic test for syphilis acceptable to the Department shall be those tests performed by these approved laboratories.

4. Following the completion of treatment, it is desirable that the infected person receive at least a two year successful post-treatment observation before he or she marries. However, where both partners are unwilling to postpone their marriage, the physician shall issue the premarital medical certificate provided that the infected partner has received, in the opinion of the physician, adequate treatment and provided the other partner to the intended marriage has been informed by the physician of the nature of the disease in his or her intended spouse, the danger of relapse, and the necessity for faithful post-treatment observation.

Approved and adopted by the Department of Public Health on 4/11/50.







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